

BRANTLEY CAPITAL CORP

Form 10-K

March 30, 2004

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**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-K**

(Mark One)

**ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF  
THE SECURITIES EXCHANGE ACT OF 1934**

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF  
THE SECURITIES EXCHANGE ACT OF 1934**

For the Fiscal Year Ended December 31, 2003

Commission File Number: 814-00127

**BRANTLEY CAPITAL CORPORATION**

(Exact name of registrant as specified in its charter)

Maryland

34-1838462

(State or other Jurisdiction of  
incorporation or organization)

(I.R.S. Employer Identification No.)

3201 Enterprise Parkway, Suite 350, Cleveland, Ohio 44122

(Address of principal executive offices including zip code)

(216) 464-8400

(Registrant's telephone number including area code)

Securities registered pursuant to Section 12(b) of the Act:

None

Securities registered pursuant to Section 12(g) of the Act:

Common Stock, \$.01 par value

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Act) Yes  No

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The aggregate market value of the voting stock held by non-affiliates of the registrant as of June 30, 2003 was \$27,852,177, based on the last sale price of such stock as quoted by the NASDAQ National Market System on such date (officers, directors and 5% shareholders are considered affiliates for purposes of this calculation).

The number of shares of common stock outstanding as of March 30, 2004 was 3,810,535.

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We are a non-diversified investment company incorporated on August 1, 1996 under the General Corporation Law of the State of Maryland that has elected to be regulated as a business development company under the Investment Company Act of 1940. Our investment objective is to achieve long-term capital appreciation in the value of our investments and to provide current income primarily from interest, dividends and fees paid by our portfolio companies.

We have provided equity and long-term debt financing to small and medium-sized companies in a variety of industries throughout the United States. Our portfolio currently consists primarily of private equity securities and, to a lesser extent, mezzanine investments primarily in the form of subordinated debt with warrants. As of December 31, 2003, our portfolio was composed of the following investments:

	<u>Cost</u>	<u>Fair Value</u>	<u>Percent</u>
Private Equity Securities(1)	\$ 19,075,503	\$ 55,011,012	91%
Private Mezzanine Securities(2)	\$ 6,106,651	\$ 5,379,392	9%
<b>Total</b>	<b>\$ 25,182,154</b>	<b>\$ 60,390,404</b>	<b>100%</b>

(1) Our private equity securities typically consist of preferred stock.

(2) All of our other current investments, including demand notes, subordinated notes and promissory notes are considered mezzanine investments, although such investments are often accompanied by warrants to purchase common stock. These mezzanine investments are sometimes referred to as equity-linked securities.

Historically, we have focused our investing activities on private equity securities intended to provide long-term capital appreciation. Currently we have a total of \$25.2 million invested in 11 private companies. At December 31, 2003, these investments had a stated fair value of \$60.4 million, a 140% increase over our original cost. Our investing activity has resulted in inception to date dividends of \$2.09 per share and an increase in our net asset value per share to \$17.34 as of December 31, 2003. The ending net asset value per share and our cumulative dividends paid per share representing a 94% appreciation since we began operations.

We periodically evaluate potential acquisitions, financing transactions, initial public offerings, strategic alliances, and sale opportunities involving our private portfolio companies. These transactions and activities are generally not disclosed to our stockholders and the investing public until such time as the transactions are publicly announced or completed, as the case may be. Any such pending transaction could have an impact on the value of an investment, which is also generally not adjusted until the transaction is publicly announced or completed.

The following table presents the fair value at December 31, 2003 of each investment that represented more than 5% of our total assets as of such date:

	<u>Fair Value</u>	<u>Percent of Total Assets</u>
Flight Options International, Inc.	\$ 32,500,000	42%
Fitness Quest, Inc.	\$ 11,186,539	15%
Integrated Physician Solutions, Inc.	\$ 3,864,348	5%

For a discussion of such investments, see Management's Discussion and Analysis of Financial Condition and Results of Operations Financial Condition, Liquidity and Capital Resources.

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On March 19, 2003, the Company entered into a Memorandum of Understanding with Phillip Goldstein, a director of the Company, pursuant to which Mr. Goldstein agreed to dismiss the lawsuit he filed against the Company in September 2002, subject to compliance with the Investment Company Act of 1940. The Court approved the proposed settlement on February 26, 2004.

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On June 4, 2003, the Company filed an application for exemptive relief from certain provisions of the 1940 Act in order to effect the provisions of the Memorandum of Understanding. On June 18, 2003, the Company received comments on its application from the staff of the Division of Investment Management of the Securities and Exchange Commission. On August 14, 2003 the Company responded to those comments. With such response, the Company proposed a new Memorandum of Understanding that was submitted to the staff of the Division of Investment Management. On November 12, 2003, the Company received comments regarding its August 14, 2003 response. The Company responded to such comments on December 18, 2003. On February 11, 2004, the staff of the Division of Investment Management requested a response from the Board of Directors, which the Board provided on February 15, 2004. The Company continues to discuss this matter with the staff of the Division of Investment Management.

The Memorandum of Understanding is subject to approval by the stockholders, and the receipt of exemptive relief from the SEC. There can be no assurance that this exemptive relief will be granted.

Pursuant to the proposed Memorandum of Understanding the Company would agree, among other things:

to cause there to be four (4) directors who are not interested persons as defined under the 1940 Act and cause the board to be exactly seven (7) directors in total;

if Mr. Goldstein or Gerald Hellerman is no longer a director of the Company then whichever of Mr. Goldstein or Mr. Hellerman remains on the board shall have the right to select a nominee;

to not convert the Company from being an advised fund to an internally managed fund unless a majority of the independent directors agree;

to allow any independent director to request independent counsel, subject to the approval of the board, which cannot be unreasonably withheld; and

to refrain from making defamatory remarks about any party to the agreement.

In addition, the proposed Memorandum of Understanding provides that at the next Annual Meeting of Stockholders:

the Company would ask shareholders to approve a plan of orderly disposition of the assets of the Company or a sale of the assets with the goal of prompt cash distribution to shareholders;

the Company would ask shareholders to approve a new investment advisory agreement pursuant to which, prospectively:

the advisor's fees would be reduced from 2.85% to 2.5% of our net asset value;

all stock options would be forfeited and cancelled; and

the advisor would be entitled to receive a fee equal to 20% of the aggregate distributions made by the Company in excess of \$10.00 per share; however, none of the amount would be paid until aggregate distributions totaled \$12.50 per share.

The proposed Memorandum of Understanding also includes provisions that would require the parties to take all steps necessary to accomplish the goals of the Memorandum, including voting their shares in favor of the proposals. Under the proposed memorandum, the Company would also be required to reimburse Mr. Goldstein for certain expenses (not to exceed \$275,000) incurred in connection with the proxy solicitation and litigation related to the Annual Meeting of Stockholders on September 17, 2002. Mr. Goldstein would also agree not to engage in, lead or fund a proxy contest while the agreement is in effect. The term of the new proposed Memorandum of Understanding would run until December 31, 2006.

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### **Investments in Private Companies**

We have provided equity and long-term debt financing to private companies. We have sought to invest in established companies that generally:

- have annual revenues of \$25 million or greater;
- operate in stable industries;
- have demonstrated favorable financial performance for at least five years; and
- have an experienced management team.

We generally have not targeted companies in industries where businesses tend to be particularly vulnerable to changes in economic cycles, are capital intensive, or are highly leveraged. Our private financing has been generally used to fund internal growth, buyouts, acquisitions and recapitalizations.

Our investment adviser has sourced and originated our investment opportunities, thereby avoiding auctions, which we believe affords us better investment terms, enhances our investment returns, and heightens the probability of successfully completing a greater percentage of our targeted transactions.

We have an extensive network of potential investment sources. We estimate that we have historically funded approximately 1% of all the private investment opportunities that our investment adviser reviews on our behalf. When assessing a prospective investment, we generally look for a company that has achieved, or has the potential to achieve, market leadership, critical mass, and sustainable cash flow.

We function as a partner in the growth of our private portfolio companies, rather than merely as a financial participant. We provide managerial assistance to our private companies through board representation and otherwise. Our representatives generally have one or two board seats on each of our private companies. We expect that our representatives will play a role in setting corporate strategies and advising our private portfolio companies regarding important decisions affecting their businesses, including:

- analyzing potential acquisitions;
- recruiting key managers;
- securing equity and debt financing; and
- evaluating strategic opportunities.

We historically have sought to enable our stockholders to participate in investments not typically available to the public due to the private nature of a substantial majority of our portfolio companies, the size of the financial commitment often required in order to participate in such investments, and/or the experience, skill and time commitment required to identify and take advantage of these investment opportunities.

#### *Private Equity Investments*

With respect to our private equity investments, we have principally focused on companies that demonstrate strong internal growth dynamics that we consider to be good candidates to achieve growth through selective acquisitions. We have also favored equity investments in private companies that we believe can achieve the necessary size, profitability, management depth and sophistication to become public companies or candidates for acquisition.

Our private equity investments have typically ranged in size from \$1 million to \$5 million. We generally structure our private equity investments as participating preferred stock with an 8% to 10% dividend yield that accumulates and is paid upon a liquidity event. We generally expect our private equity investments to achieve liquidity within three to five years from their respective origination dates, although there can be no assurance that such a time frame will be met, and situations may arise in which we hold securities for a significantly longer period of time.



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### *Mezzanine Investments*

To date our equity-linked investments have been in the form of mezzanine debt with an equity kicker such as a warrant. Our existing mezzanine investments are generally subordinated notes, ranging in size from \$1 million to \$3 million with a fixed interest rate of approximately 12% and maturities of five to seven years. Currently, mezzanine investments represent 9% of our investment portfolio.

With respect to our mezzanine investments, we have focused on private companies that have demonstrated predictable and sustainable cash flows from operations, strong tangible assets, reasonable financial leverage relative to cash flows from operations, and reasonable prospects to retire at least 50% of their senior indebtedness within three years of our investment.

The opportunity to liquidate the equity ownership attributable to our mezzanine investments and to realize a gain may occur if the business completes a recapitalization of its equity, either through a sale to new owners, a public offering of its equity, or if we exercise our contractual right, referred to as a put right, to require the portfolio company to purchase the warrants or options held by us at a predetermined put price. The put price of the put right is determined at the time of the original investment and is structured to provide our target return.

### **Small-Capitalization Public Stock Investments**

From our inception through September 2002, we invested a portion of our assets in small-capitalization public companies. With respect to our investments in small-capitalization public companies, our primary focus was on companies that our investment adviser believed had significant potential for growth in sales and earnings. We considered a small-capitalization company to be a company that has a market capitalization under \$1.5 billion.

As the Company's assets became more fully invested, we made the decision to dedicate the remaining available capital to our private company investment activities. As a result, we liquidated our small-capitalization public stock portfolio in the third quarter of 2002.

### **Investment Sourcing**

We have enjoyed significant deal sourcing benefits from relationships that the principals of our investment adviser have developed over the years. These individuals have, collectively, in excess of 60 years of private company investment experience including financings involving private equity securities and mezzanine investments, have invested in over 100 private companies and currently manage approximately \$250 million in assets. As such, they have established an extensive network of investment referral relationships. Our investment adviser reviews approximately 800 investment opportunities annually for private investment funds that it manages.

We have also worked with numerous other intermediaries to source new investment opportunities, including, but not limited to:

Private mezzanine and equity investors;

Banks, law firms, and accountants;

Investment bankers;

Business brokers; and

Industry organizations.

### **Selection of Investments and Underwriting Process**

Most of our investments are in small to medium-sized companies with annual sales of under \$500 million. The main criteria for the selection of our investments in portfolio companies has remained consistent since we began operations. We have sought to identify platform companies which we believe have significant opportunities in the markets they serve or have devised innovative products, services or ways of doing business that afford them a distinct competitive advantage. Such companies might achieve growth either internally or by acquisition.

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In evaluating potential portfolio companies, we have paid particular attention to the following characteristics:

**Management.** We have sought investments in companies whose management team consists of talented individuals of high integrity with significant experience. We pay particular attention to the depth of the management team and the extent to which key managers have an ownership interest in the company.

**Opportunity for Significant Influence.** We have favored investments in companies in which we have had the opportunity to become a partner in the building of the business, rather than being merely a financial participant. In addition, we pursued companies in which our representatives play a role in setting corporate strategies and providing advice regarding important decisions affecting the business, including analyzing potential acquisitions, recruiting key managers, securing equity and debt financing and evaluating strategic opportunities.

**Market Dynamics.** We preferred investments in companies that address a large, unfulfilled market demand with long-term growth prospects that can reasonably expect to achieve and maintain a significant market share through proprietary products and services. We also favored investments in companies that deliver products and services with significant performance and cost advantages in industries and markets in which significant barriers to effective competition by others exist.

**Ability to Achieve Liquidity.** We considered the potential and likely means for achieving the liquidity that would ultimately enable us to realize the value of our equity investments. Possible ways of achieving liquidity include an initial public offering of the company, a sale of the company or a purchase by the company or its managers of our equity interest. With respect to our mezzanine investments, we also may achieve liquidity through an exercise of the put right that we receive in connection with such investments.

**Ability to Service Debt.** With respect to our mezzanine investments, we sought companies that have demonstrated predictable and sustainable cash flows from operations, strong tangible assets, reasonable financial leverage relative to cash flows from operations, and reasonable prospects to retire at least 50% of their senior indebtedness within three years of our investment.

Our investment process includes the identification, due diligence, negotiation, documentation and closing of the investment. Our due diligence typically includes:

review of historical and prospective financial information;

on-site visits;

interviews with management, employees, customers and vendors of the potential portfolio company;

background checks; and

research relating to the company's management, markets, products and services.

Upon the completion of due diligence and a decision to proceed with an investment in a company, our investment adviser creates an investment memorandum for presentation to our board of directors, which must approve the investment. Additional due diligence with respect to any investment by us may be conducted on our behalf by attorneys and independent accountants prior to the closing of the investment, as well as other outside advisers, as appropriate.

## **Portfolio Monitoring and Valuation**

We have a written policy that governs the valuation of our assets, pursuant to which our board of directors values our assets each quarter.

We value our privately held investments based on a determination of their fair value made in good faith by our board of directors. Initially, the fair value of each such security is based upon its original cost. Cost is also the primary factor used to determine fair value on an ongoing basis until significant developments or other factors affecting the investment (such as results of subsequent financings, the availability of market quotations, the portfolio company's operations and changes in general market conditions) provide a basis for value other than

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cost. Portfolio investments listed on a securities exchange or traded on the Nasdaq Stock Market are valued at the closing price listed on the relevant exchange or quotation system at the date of valuation. Securities traded in the over-the-counter market are valued based on the average of the closing bid and asked prices on the date of valuation.

Public securities with legal, contractual or other restrictions on transfer may be discounted due to such restrictions. The lack of liquidity of these securities may adversely affect our ability to dispose of them in a timely manner and at a fair price when we deem it necessary or advantageous to do so.

We continuously evaluate opportunities to maximize the value of our investments. In that regard, we periodically evaluate potential acquisitions, financing transactions, initial public offerings, strategic alliances, and sale opportunities involving our private portfolio companies. These transactions and activities are generally not disclosed to our stockholders and the investing public until such time as the transactions are publicly announced or completed, as the case may be. Any such pending transaction could have an impact on the value of an investment, which is also generally not adjusted until the transaction is publicly announced or completed.

**Investment Adviser**

Brantley Capital Management, L.L.C. has served as our investment adviser since our inception pursuant to an Investment Advisory Agreement. The principals of our investment adviser collectively have in excess of 60 years of private company investment experience, have invested in over 100 private companies and currently manage approximately \$250 million in assets, including our assets.

In addition to managing our investments, principals of our investment adviser currently manage the following other funds:

<b>Fund Name</b>	<b>Adviser Since</b>	<b>Committed Capital (in millions)</b>	<b>Status</b>
Brantley Venture Partners I (BVP I)	1987	\$ 12.5	Completed
Brantley Venture Partners II (BVP II)	1990	30.0	Completed
Brantley Venture Partners III (BVP III)	1993	57.5	Closed to new investments
Brantley Partners IV (BP IV)	1998	123.8	Approximately 70% invested or committed

The principals of our adviser may form other funds that may make similar investments to the Company's investments.

The principals of our investment adviser select our investments and those of other private investment funds they manage separately, considering in each case only the investment objectives, investment position, available capital and other pertinent factors applicable to that particular investment fund.

Since our inception, our investment adviser has been responsible, on a day-to-day basis, for the selection and supervision of our investments and for the oversight of our financial records and financial reporting requirements. Our investment adviser has experience with both equity and mezzanine investments, including the mezzanine investments in our current portfolio.

Under the terms of our Investment Advisory Agreement, we currently pay our investment adviser an annual management fee of 2.85% of our net assets, determined at the end of each calendar quarter, and payable quarterly in arrears throughout the term of the Investment Advisory Agreement. In connection with the Memorandum of Understanding which is subject to stockholder approval and the receipt of exemptive relief from the SEC, our board has approved and we intend to enter into a new investment advisory agreement that, among other things, reduces the fee we pay on our net assets from 2.85% to 2.5%. The new investment advisory agreement also requires us to pay our advisor a fee equal to 20% of the distributions we make to stockholders in excess of \$10.00 per share, provided that no payment shall be made until we have distributed at least \$12.50 per share to our stockholders. We intend to seek stockholder approval of the new investment advisory agreement at our 2004 Annual Meeting of Stockholders. The terms of the new agreement will not become effective until stockholder approval has been obtained.

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Our investment adviser is responsible for the salaries and expenses of its own personnel, office space costs and local telephone and administrative support costs. For the fiscal years ended December 31, 2003, 2002 and 2001, fees earned by our investment adviser were \$1,952,808, \$1,901,941, and \$1,631,885 respectively. The Investment Advisory Agreement is renewed annually and is terminable with 60 days notice by either party.

### **Co-Investments and Follow-On Investments**

We have co-invested with other private investment funds managed by our investment adviser, on terms and conditions that are the same in all material respects for all parties. At the present time, these funds include Brantley Venture Partners II, L.P., Brantley Venture Partners III, L.P. and Brantley Partners IV, L.P. On November 18, 1997, we received an exemptive order from the Securities and Exchange Commission that, subject to certain terms and conditions, relieves us from certain provisions of the Investment Company Act of 1940 and generally permits us to co-invest with investment funds managed by our investment adviser.

### **Temporary Investments**

We invest our cash in cash equivalents, government securities and high quality debt securities maturing in 90 days or less from the time of investment.

### **The Investment Advisory Agreement**

Pursuant to the Investment Advisory Agreement, Brantley Capital Management, L.L.C., Lakepoint, 3201 Enterprise Parkway, Suite 350, Cleveland, Ohio 44122, serves as our investment adviser. Subject to the overall supervision of our board of directors, our investment adviser administers our business affairs and furnishes us with office facilities and clerical, bookkeeping and record keeping services at such facilities.

Pursuant to the terms of the Investment Advisory Agreement, our investment adviser is responsible for, among other things:

Determining what securities we will purchase, retain or sell;

Identifying and evaluating the structure of the investments we make;

Arranging debt financing for us;

Providing portfolio management and servicing of securities in our portfolio; and

Administering our day-to-day affairs.

Our investment adviser is also responsible for oversight of the administrator responsible for the financial records which we are required to maintain and assists in the preparation of financial information for reports to our stockholders and reports filed with the Securities and Exchange Commission. In addition, our investment adviser assists us in determining and publishing our net asset value, oversees both the preparation and filing of our tax returns, and the printing and dissemination of reports to our stockholders, and generally oversees the payment of our expenses and the performance of administrative and professional services rendered to us by others.

In return for its services, we currently pay our investment adviser an annual management fee of 2.85% of our average net assets, determined at the end of each calendar quarter, and payable quarterly in arrears, throughout the term of the Investment Advisory Agreement.

The Investment Advisory Agreement is not exclusive, and the adviser is free to furnish similar services to others so long as its services to us are not impaired.

Our investment adviser is responsible for the salaries and expenses of its own personnel and for certain additional expenses, including but not limited to:

all costs associated with identifying and selecting prospective investments;

the cost of office space and necessary office equipment for us; and

the cost of adequate corporate, administrative and clerical personnel for us.

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We are responsible for all other expenses, including those relating to calculating and publishing our net asset value, all other expenses incurred by either our investment adviser or us in connection with administering the ordinary course of our business, and direct costs such as printing, mailing, long distance telephone, staff, independent accountants and outside legal costs.

The Investment Advisory Agreement was approved by our board of directors on October 29, 1996, and is renewable each year on November 26, provided that its continuance is approved annually by our board of directors or by the affirmative vote of the holders of a majority of the outstanding shares of our common stock, including, in either case, approval by our directors who are not interested persons. Our board of directors recently approved the renewal of the Investment Advisory Agreement and it is therefore subject to renewal on November 26, 2004. The Investment Advisory Agreement may be terminated by either party without penalty upon at least 60 days notice to the other. See Risk Factors We Depend Upon Our Investment Adviser for Our Future Success.

In connection with the Memorandum of Understanding which is subject to stockholder approval and the receipt of exemptive relief from the SEC, our board of directors has approved and we intend to enter into a new investment advisory agreement that, among other things, reduces the fee we pay on our net assets from 2.85% to 2.5%. The new investment advisory agreement also requires us to pay our advisor a fee equal to 20% of the distributions we make to stockholders in excess of \$10.00 per share, provided that no payment shall be made until we have distributed at least \$12.50 per share to our stockholders. We intend to seek stockholder approval of the new investment advisory agreement at our 2004 Annual Meeting of Stockholders. Our investment advisor will operate under the currently executed investment advisory agreement pending the approval of the new investment advisory agreement by our stockholders.

### **Administrator, Custodian, Transfer and Dividend Paying Agent and Registrar**

State Street Bank and Trust Company serves as our administrator and, subject to appropriate review and approval by our board of directors or our officers:

oversees the determination and publication of our net asset value;

oversees the maintenance by our custodian of certain of our books and records;

prepares income tax returns for review by our independent accountants;

reviews and arranges for payment of our expenses;

prepares financial information to be submitted to our stockholders and arranges for the printing and dissemination of reports and communications to our stockholders;

prepares periodic financial information required to be filed with the Securities and Exchange Commission;

prepares certain reports relating to our business and affairs, and upon request, makes recommendations to the board of directors concerning the performance of the independent accountants or the performance and fees of the custodian and transfer agent;

oversees calculations of fees paid to our investment adviser, custodian and transfer agent;

provides periodic testing of portfolios to assist our investment adviser in complying with the Internal Revenue Code, the requirements of the Investment Company Act of 1940; and

provides such other services as necessary to administer the ordinary course of our business.

For its services, we pay the administrator an annual fee based on our average net assets of (i) 0.08% of the first \$100 million of average net assets; (ii) 0.06% of the next \$100 million of average net assets; and (iii) 0.04% of average net assets in excess of \$200 million, subject to a minimum annual fee of \$75,000. Based on our net assets of \$66,090,665 at December 31, 2003, the annual fee we would pay to the administrator in 2004 would be \$75,000. An additional annual fee of \$10,000 will be applied if we engage in leverage transactions other than temporary borrowings. We also reimburse the administrator for its out-of-pocket expenses.



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Our administration agreement with State Street Bank and Trust Company also provides for certain limitations on the liability of State Street and indemnification of State Street by us under certain circumstances. State Street cannot be held liable for damages under the agreement unless such damages were caused by gross negligence or willful misconduct, and such damages are limited to State Street's total annual compensation under the administration agreement. In addition, we agree to indemnify State Street against any claims made under the administration agreement that are not the result of the gross negligence or willful misconduct of State Street, its officers or employees.

State Street Bank and Trust Company, 225 Franklin Street, Boston, MA, 02110 is our transfer and dividend paying agent and registrar as well as our custodian.

### **Determination of Net Asset Value**

We have a written policy that governs the valuation of our assets, pursuant to which our board of directors values our assets each quarter. We value our privately held investments based on a determination of their fair value made in good faith by our board of directors. Initially, the fair value of each such security is based upon its original cost. Cost is also the primary factor used to determine fair value on an ongoing basis until significant developments or other factors affecting the investment (such as results of subsequent financings, the availability of market quotations, the portfolio company's operations and changes in general market conditions) provide a basis for value other than cost.

In adjusting the value of any given portfolio company, our board of directors applies various methods under our valuation guidelines to determine value. They may use, when available, third-party transactions in a portfolio company's securities as the basis of valuation. This basis of valuation is referred to as the private market method and is used only with respect to completed transactions or firm offers made by sophisticated, independent investors. Our board of directors may also use appraisal procedures to determine fair value. Appraisal valuations are based upon such factors as the portfolio company's earnings and net worth, the market prices for similar securities of comparable companies and an assessment of the company's future financial prospects. In the case of unsuccessful operations, the appraisal may be based upon liquidation value. Appraisal valuations are necessarily subjective.

Portfolio investments for which market quotations are readily available and which are freely transferable are valued as follows:

securities listed on a securities exchange or traded on the Nasdaq Stock Market are valued at the closing price listed on the relevant exchange or quotation system on the date of valuation; and

securities traded in the over-the-counter market (known as pink sheets) are valued based on the average of the closing bid and asked prices on the date of valuation.

Securities for which market quotations are readily available but are restricted from free trading in the public securities markets, such as Rule 144 stock, are valued by discounting the closing price or the closing bid and asked prices, as the case may be, for the last trading day prior to the date of valuation to reflect the illiquidity caused by such restrictions, but taking into consideration the existence, or lack thereof, of any contractual right to have the securities registered and freed from such trading restrictions.

An investment that is exercisable for or convertible into a security for which market quotations are readily available or otherwise contains the right to acquire such a security is deemed to be an investment for which market quotations are readily available, but the value of any such security is reduced by any consideration to be paid by us in connection with the exercise or conversion of such security.

The value of restricted stock investments for which no public market exists cannot be precisely determined. Generally, such investments are valued on a going concern basis without giving effect to any disposition costs. Debt securities with maturities of 60 days or less remaining are valued under the amortized cost method. The amount to be amortized is the value on the 61st day if the security was obtained with more than 60 days remaining to maturity. Securities with maturities of more than 60 days remaining for which there is a market and which are freely transferable are valued at the most recent bid price or yield equivalent as obtained from dealers

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that make markets in such securities. Certificates of deposit which we purchase generally are valued at their face value, plus interest accrued to the date of valuation.

Our board of directors reviews our valuation policies from time to time to determine their appropriateness. Our board of directors may also hire independent firms to review the methodology of valuation or to conduct a valuation.

In order to determine the net asset value per share of our common stock:

the value of our assets, including our portfolio securities, is determined by our board of directors;

our liabilities, if any, are subtracted therefrom; and

the difference is divided by the number of outstanding shares of our common stock.

The value of our investments may be very difficult to ascertain. Valuation of our investments by the board of directors is, by necessity, subjective and may not be indicative of the price at which such securities may ultimately be sold. The net asset value, as determined by our board of directors, may not be reflective of the price at which an investor could sell his, her or its shares of our common stock in the open market.

## **Regulation as a Business Development Company**

We operate in a highly regulated environment. The following discussion generally summarizes certain regulations.

A business development company is defined and regulated by the Investment Company Act of 1940. It is a unique kind of investment company that primarily focuses on investing in or lending to small private companies and making managerial assistance available to them. A business development company may use capital provided by public stockholders and from other sources to invest in long-term, private investments in growing businesses. A business development company provides stockholders the ability to retain the liquidity of a publicly traded stock, while sharing in the possible benefits, if any, of investing in privately owned growth companies.

As a business development company, we may not acquire any asset other than qualifying assets unless, at the time we make the acquisition, our qualifying assets represent at least 70% of the value of our total assets. This is referred to as the 70% test. The principal categories of qualifying assets relevant to our business are:

Securities purchased in transactions not involving any public offering, the issuer of which is an eligible portfolio company. An eligible portfolio company is defined to include any issuer that:

is organized and has its principal place of business in the United States;

is not an investment company other than a small business investment company wholly owned by a business development company; and

does not have any class of publicly traded securities with respect to which a broker may extend margin credit;

Securities received in exchange for or distributed with respect to securities described above or pursuant to the exercise of options, warrants, or rights relating to such securities; and

Cash, cash equivalents, government securities, or high quality debt securities, within the meaning of the Investment Company Act of 1940, maturing in one year or less from the time of investment.

In addition, a business development company must be organized in the United States for the purpose of making investments in the types of securities described above. To include certain securities described above as qualifying assets for the purpose of the 70% test, a business development company must make available to the issuer of those securities significant managerial assistance such as providing significant guidance and counsel concerning the management, operations, or business objectives and policies of a portfolio company.

We may invest up to 30% of our assets in portfolio investments that are not qualifying assets.



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As a business development company, we are entitled to issue senior securities in the form of stock or senior securities representing indebtedness, including debt securities and preferred stock, as long as each class of senior security has an asset coverage of at least 200% immediately after each such issuance.

We are also prohibited by the Investment Company Act of 1940 from knowingly participating in a joint transaction, including co-investments in a portfolio company with an affiliated person, including any of our directors, our investment adviser or any entity controlled or advised by any of them. We have been granted an exemptive order from the Securities and Exchange Commission relieving us, subject to certain terms and conditions, from certain of the provisions of the Investment Company Act of 1940, and generally permitting us to engage in co-investments with certain private investment funds managed by our investment adviser.

We have adopted a code of ethics that establishes procedures for personal investments and restricts certain transactions. You may read and copy the code of ethics at the Securities and Exchange Commission's Public Reference Room in Washington, DC. You may obtain information on the operation of the Public Reference Room by calling the Commission at 1-202-942-8090. In addition, the code of ethics is available on the EDGAR Database on the Commission's Internet site at <http://www.sec.gov>. You may obtain copies of the code of ethics, after paying a duplicating fee, by electronic request at the following Email address: [publicinfo@sec.gov](mailto:publicinfo@sec.gov), or by writing the Commission's Public Reference Section Washington, DC 20549-0102.

Our Internet address is [www.brantleycapital.com](http://www.brantleycapital.com). We make available free of charge on our website our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to those reports as soon as reasonably practicable after we electronically file such material with, or furnish it to, the SEC. Information contained on our website is not incorporated by reference into this annual report on Form 10-K, and you should not consider information contained on our website to be part of this annual report on Form 10-K.

Under the Investment Company Act of 1940, we are prohibited, as a business development company, from selling our common stock at a price below the current net asset value per share for such stock unless, among other conditions, the policy and practice of making such sales is approved by holders of a majority of our outstanding voting securities, as well as the holders of a majority of our outstanding voting securities who are not our affiliates. In addition, a majority of our directors who are not interested persons of our company must first determine that any such sale would be in the best interest of our company and our stockholders, and in consultation with the underwriter, that the offering price would be not less than a price that closely approximates the market price less any distributing discount or commission.

We may not change the nature of our business so as to cease to be, or withdraw our election as, a business development company unless authorized by vote of a majority of the outstanding voting securities, as defined in the Investment Company Act of 1940. The Investment Company Act of 1940 defines a majority of the outstanding voting securities as (1) 67% or more of the voting securities present at such meeting if the holders of more than 50% of the outstanding voting securities are present or represented by proxy, or (2) 50% of the outstanding voting securities, whichever of the two is the lesser.

## **Tax Status**

*The following discussion is a general summary of the material United States federal income tax considerations applicable to us and to an investment in our common stock. This summary does not purport to be a complete description of the income tax considerations applicable to such an investment. The discussion is based upon the Internal Revenue Code, Treasury Regulations, and administrative and judicial interpretations, each as of the date of this report and all of which are subject to change. You should consult your own tax advisor with respect to tax considerations that pertain to your purchase of our common stock.*

*This summary is intended to apply to investments in our common stock and assumes that investors hold our common stock as capital assets. This summary does not discuss all aspects of federal income taxation relevant to holders of our common stock in light of particular circumstances, or to certain types of holders subject to special treatment under federal income tax laws, including dealers in securities, pension plans and trusts and financial institutions. This summary does not discuss any aspects of U.S. estate and gift tax or foreign, state or local tax. It*

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*does not discuss the special treatment under federal income tax laws that could result if we invested in tax-exempt securities or certain other investment assets.*

*Except as specifically indicated herein, this summary is intended to apply to U.S. Stockholders (as defined below) and does not purport to discuss all U.S. federal income tax consequences to persons who are not U.S. Stockholders ( Non-U.S. Stockholders ) from an investment in our common stock. A U.S. Stockholder is a stockholder who is (i) a citizen or resident of the United States, (ii) a corporation, partnership or other entity created in or organized under the laws of the United States or any political subdivision thereof, (iii) an estate, the income of which is subject to United States federal income taxation regardless of its source, or (iv) a trust subject to the supervision of a court within the United States and the control of a United States person. Non-U.S. Stockholders should consult their own tax advisors to discuss the consequences of an investment in our common stock.*

### **Taxation as a Regulated Investment Company**

We intend to continue to be treated for tax purposes as a regulated investment company under Subchapter M of the Internal Revenue Code ( the Code ). If we (i) qualify as a regulated investment company and (ii) distribute to our stockholders in a timely manner at least 90% of our investment company taxable income, as defined below (the 90% Distribution Requirement ) each year, we will not be subject to federal income tax on the portion of our investment company taxable income and net capital gain (i.e., net long-term capital gain in excess of net short-term capital loss) that we distribute (or treat as deemed distributed ) to stockholders. Investment Company Taxable Income under the Code generally means all taxable income excluding any net capital gains and with certain other adjustment period. In addition, if we distribute in a timely manner the sum of (i) 98% of our ordinary income for each calendar year, (ii) 98% of our capital gain net income for the one-year period ending October 31 in that calendar year, and (iii) any income not distributed in prior years, we will not be subject to the 4% nondeductible federal excise tax on certain undistributed income of regulated investment companies (the Excise Tax Avoidance Requirements ). We generally will endeavor to distribute (or treat as deemed distributed) to our stockholders all of our investment company taxable income and our net capital gain, if any, for each taxable year so that we will not incur federal income or excise taxes on our earnings. We will be subject to federal income tax at our regular corporate rate for any amounts of investment company taxable income or net capital gain not distributed (or deemed distributed) to our stockholders.

In order to qualify as a regulated investment company for federal income tax purposes, we must, among other things: (a) continue to qualify as a business development company under the Investment Company Act of 1940; (b) derive in each taxable year at least 90% of our gross income from dividends, interest, payments with respect to securities loans, gains from the sale of stock or other securities, or other income derived with respect to our business of investing in such stock or securities (the 90% Income Test ); and (c) diversify our holdings so that at the end of each quarter of the taxable year (i) at least 50% of the value of our assets consists of cash, cash equivalents, U.S. government securities, securities of other regulated investment companies, and other securities if such other securities of any one issuer do not represent more than 5% of our assets or more than 10% of the outstanding voting securities of the issuer (the 50% of the Value Requirement ), and (ii) no more than 25% of the value of our assets is invested in the securities (other than U.S. government securities or securities of other regulated investment companies) of any one issuer or of two or more issuers that are controlled (as determined under applicable rules of the Internal Revenue Code) by us and are engaged in the same or similar or related trades or businesses (the 25% of the Value Limitation and together, the 50% of the Value Requirement and the 25% of the Value Limitation shall be referred to as the Diversification Test. )

Because we invest in only a limited number of portfolio companies, we currently do not satisfy the 25% of the Value Limitation (and therefore the Diversification Test). In addition, we anticipate that we may not satisfy the Diversification Test on the last day of one or more future quarters. The Internal Revenue Code, however, modifies the above Diversification Test in the case of certain investment companies furnishing capital to development corporations (the Modified Diversification Test ). In order for the Modified Diversification Test to be applicable to us, the Securities and Exchange Commission must determine and certify to the Internal Revenue Service no more than 60 days prior to the close of each relevant taxable year that we are principally engaged in the furnishing of capital to other corporations that are principally engaged in the development or exploitation of

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inventions, technological improvements, new processes, or products not previously generally available. For purposes of this determination, a corporation will be considered to be principally engaged in the development or exploitation of inventions, technological improvements, new processes, or products not previously generally available for at least 10 years after our first acquisition of any security in such corporation if, as of the date of such first acquisition, the issuer corporation was principally so engaged. In addition, we will be considered on any date to be furnishing capital to a corporation whose securities we hold if we have acquired securities in such corporation within the preceding 10 years. We intend to request such certification, if necessary. Periodic recertification may be necessary.

If the Modified Diversification Test is applicable to us, then for purposes of determining whether we satisfy the 50% of the Value Requirement discussed above, we will be able to include the value of the securities of any issuer (whether or not we hold more than 10% of the outstanding voting securities of such issuer) provided that at the time of the latest acquisition of any securities of such issuer our basis in all securities of such issuer held by us did not exceed 5% of the value of our total assets as of such date. The Modified Diversification Test will not apply to any security of an issuer if we have continuously held securities in such issuer (or any predecessor company) for more than 10 years. In addition, the Modified Diversification Test will not apply to us for a quarter if, as of the close of such quarter, more than 25% of our total assets are represented by securities of issuers for which we hold more than 10% of the outstanding voting securities of such issuers and with respect to which we have continuously held securities in such issuers (or any predecessor companies) for more than 10 years, unless the value of our total assets represented by such securities is reduced to 25% or less within 30 days after the close of such quarter. Even if the Modified Diversification Test is applicable to us, we must still satisfy the 25% of the Value Limitation discussed above. The Internal Revenue Code also contains two other exceptions to the Diversification Test that may allow us to continue to qualify as a regulated investment company even if we fail to satisfy the Diversification Test (or the Modified Diversification Test) as of the close of any quarter. In this respect, the Code provides that a company that satisfied the Diversification Test as of the close of any quarter shall not lose its status as a regulated investment company during a subsequent quarter due to a discrepancy between the value of its various investments and the requirements of the Diversification Test unless such discrepancy exists immediately after the acquisition of any security or other property and is wholly or partly the result of such acquisition. Thus, if we have satisfied the Diversification Test for at least one quarter, we will not lose our status as a regulated investment company as a result of failing to satisfy the Diversification Test provided such failure is due to a fluctuation in the value of our assets or a distribution made by us and is not attributable in whole or in part to the acquisition of any securities (the Fluctuation in Value Exception). In addition, if a discrepancy is due in whole or in part to the acquisition of securities, the Internal Revenue Code provides that a company will not lose its status as a regulated investment company if such discrepancy is eliminated within 30 days after the close of such quarter. Thus, we will generally have 30 days after the close of any quarter to dispose of assets in order to satisfy the Diversification Test. We currently satisfy the Fluctuation in Value Exception. Accordingly, although we do not satisfy the Diversification Test, we are still adequately diversified under the Subchapter M requirements for regulated investment companies.

If we fail to satisfy the Diversification Test for any future quarter, the Modified Diversification Test and the exceptions to the Diversification Test discussed above, we will fail to qualify as a regulated investment company and all of our income will be subject to federal income tax at the regular corporate tax rate as discussed below. As a result, we will make every effort to satisfy the Diversification Test, the Modified Diversification Test, or the exceptions to the Diversification Test. In order to satisfy these tests, however, we may be prevented from making acquisitions (including acquisitions through the exercise of options, warrants, conversion rights, or other purchase rights) of new or additional securities, even though we believe such acquisitions to be advantageous or beneficial from an investment standpoint. Alternatively, it may be necessary for us to dispose of certain currently held securities in order to satisfy these tests even though such dispositions may not be advantageous or beneficial from an investment standpoint. Because our portfolio will consist primarily of illiquid investments, we may not be able to dispose of our assets in a timely manner or on an economically advantageous basis in order to satisfy the Diversification Test, the Modified Diversification Test or the exceptions to the Diversification Test.

If we acquire or are deemed to have acquired debt obligations that were issued originally at a discount or that otherwise are treated under applicable tax rules as having original issue discount, we must include in income

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each year a portion of the original issue discount that accrues over the life of the obligation regardless of whether cash representing such income is received by us in the same taxable year. Any amount accrued as original issue discount will be included in our investment company taxable income for the year of accrual and may have to be distributed to our stockholders in order to satisfy the 90% Distribution Requirement or the Excise Tax Avoidance Requirements even though we have not received any cash representing such income.

Although we do not presently expect to do so, we are authorized to borrow funds and to sell assets in order to satisfy distribution requirements. However, under the Investment Company Act of 1940, we are not permitted to make distributions to our stockholders while our debt obligations and other senior securities are outstanding unless certain asset coverage tests are met. Moreover, our ability to dispose of assets to meet our distribution requirements may be limited by (i) the illiquid nature of our portfolio and/or (ii) other requirements relating to our status as a regulated investment company, including the Diversification Test. If we dispose of assets in order to meet the 90% Distribution Requirement or the Excise Tax Avoidance Requirements, we may make such dispositions at times that, from an investment standpoint, are not advantageous.

If we fail to satisfy the 90% Distribution Requirement or otherwise fail to qualify as a regulated investment company in any taxable year, we will be subject to tax in that year on all of our taxable income, regardless of whether we make any distributions to our stockholders. In that case, all of our distributions to our stockholders will be characterized as ordinary income (to the extent of our current and accumulated earnings and profits). In contrast, as is explained below, if we qualify as a regulated investment company, a portion of our distributions or deemed distributions may be characterized as long-term capital gain in the hands of our stockholders.

*The remainder of this summary assumes that we qualify as a regulated investment company and satisfy the 90% Distribution Requirement.*

## **Taxation of Stockholders**

Our distributions generally are taxable to our stockholders as ordinary income or capital gains. Distributions of our investment company taxable income will be taxable as ordinary income to our stockholders to the extent of our current or accumulated earnings and profits, whether paid in cash or reinvested in additional common stock. Distributions of our net capital gains properly designated by us as capital gain dividends will be taxable to a stockholder as long-term capital gains regardless of such stockholder's holding period for his or her common stock and regardless of whether paid in cash or reinvested in additional common stock. Distributions in excess of our earnings and profits first will reduce a stockholder's adjusted tax basis in such stockholder's common stock and, after the adjusted basis is reduced to zero, will constitute capital gains to such stockholder. Any distribution automatically reinvested in additional shares of our common stock through our opt out dividend reinvestment plan will be taxable to a stockholder to the same extent, and with the same character, as if such stockholder received the distribution in cash. Any additional shares of our common stock acquired by a stockholder pursuant to such an automatic reinvestment of a distribution will have an adjusted basis equal to the amount of the reinvested distribution and will have a holding period that will commence on the date such shares are acquired by, or allocated for the benefit of, such stockholder. A portion of our distributions may be subject to alternative minimum tax. You should consult your own tax advisor to determine how an investment in our stock would affect your alternative minimum tax liability.

At our option, we may elect to retain some or all of our net capital gains for a tax year, but designate the retained amount as a deemed distribution. In that case, among other consequences, we will pay tax on the retained amount for the benefit of our stockholders, our stockholders will be required to report their share of the deemed distribution on their tax returns as if it had been distributed to them, and our stockholders will report a credit for the tax paid thereon by us. The amount of the deemed distribution net of such tax will be added to a stockholder's cost basis for his or her common stock. Since we expect to pay tax on any retained net capital gains at our regular corporate capital gain tax rate, and since that rate is in excess of the maximum rate currently payable by individuals on long-term capital gains, the amount of tax that individual stockholders will be treated as having paid and for which they will receive a credit will exceed the amount of tax that such stockholders would be required to pay on the retained net capital gains. Such excess generally will be available to offset other tax liability to the stockholders. A stockholder that is not subject to U.S. federal income tax should be able to file a

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return on the appropriate form or a claim for refund that allows such stockholder to recover the taxes paid on his or her behalf. In the event we choose this deemed distribution option, we must provide written notice to our stockholders prior to the expiration of 60 days after the close of the relevant tax year.

Any dividend we declare in October, November, or December of any calendar year, payable to our stockholders of record on a specified date in such a month and which we actually pay during January of the following year, will be treated as if it had been received by our stockholders on December 31 of the year in which we declared the dividend.

If we acquire qualified small business stock, hold such stock for more than five years, and dispose of such stock at a gain, a non-corporate stockholder who held his, her, or its common stock at the time that we purchased the qualified small business stock and at all times thereafter until the disposition of such qualified small business stock may be entitled to exclude from such stockholder's taxable income up to 50% of such stockholder's share of such gain. For this purpose, qualified small business stock generally means stock that was acquired directly from the issuing corporation, where such issuing corporation is taxable under Subchapter C of the Internal Revenue Code, is actively engaged in a trade or business, and has no more than \$50,000,000 of gross assets at any time prior to issuance and immediately thereafter. A portion of any amount excluded from your taxable income pursuant to the rules discussed in this paragraph will be treated as a preference item for purposes of computing your alternative minimum tax liability.

You should consider the tax implications of buying our common stock just prior to a distribution. Even if the price of our common stock includes the amount of the forthcoming distribution, you may be taxed upon receipt of the distribution and will not be entitled to offset the distribution against your tax basis in our common stock. You may recognize taxable gain or loss if you sell or exchange our common stock. The amount of the gain or loss will be measured by the difference between your adjusted tax basis in such stock and the amount of the proceeds you receive in exchange for such stock. Any gain or loss arising from (or, in the case of distributions in excess of earnings and profits, treated as arising from) the sale or exchange of our common stock generally will be a capital gain or loss. This capital gain or loss normally will be treated as a long-term capital gain or loss if you have held such stock for more than one year; otherwise, it will be classified as short-term capital gain or loss. However, any capital loss arising from the sale or exchange of our common stock held for six months or less generally will be treated as a long-term capital loss to the extent of the amount of capital gain dividends received, or treated as deemed distributed, with respect to such stock and, for this purpose, the special rules of Section 852(b)(4)(C) of the Internal Revenue Code generally apply in determining the holding period of such stock. In addition, all or a portion of any loss realized upon a taxable disposition of our common stock may be disallowed if other shares of our common stock are purchased, under our dividend reinvestment and cash purchase plan or otherwise, within 30 days before or after the disposition.

In general, non-corporate stockholders currently are subject to a maximum federal income tax rate on their net long-term capital gain (the excess of net long-term capital gain over net short-term capital loss) for a taxable year (including a long-term capital gain derived from an investment in the common stock of the company) that is lower than the maximum rate for other income. Corporate taxpayers currently are subject to federal income tax on net capital gains at a maximum rate equal to the maximum rate applied to ordinary income. Tax rates imposed by states and local jurisdictions on capital gain and ordinary income may differ. Non-corporate stockholders with net capital losses for a year (i.e., capital losses in excess of capital gains) generally may deduct up to \$3,000 of such losses against their ordinary income each year; any net capital losses of a non-corporate stockholder in excess of \$3,000 generally may be carried forward and used in subsequent years as provided in Section 1212(b) of the Internal Revenue Code. Corporate stockholders generally may not deduct any net capital losses for a year, but may carryback such losses for three years or carry forward such losses for five years.

We will send to each of our stockholders, as promptly as possible after the end of each calendar year, a notice detailing, on a per share and per distribution basis, the amounts includible in such stockholder's taxable income for such year as ordinary income and as long-term capital gain. In addition, the federal tax status of each year's distributions generally will be reported to the Internal Revenue Service. Distributions may also be subject to additional state, local, and foreign taxes depending on a stockholder's particular situation. Our ordinary income dividends to corporate stockholders may, if certain conditions are met, qualify for the dividends received

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deduction to the extent that we have received qualifying dividend income during the taxable year; capital gain dividends distributed by us are not eligible for the dividends received deduction. However, the alternative minimum tax applicable to corporations may reduce the benefit of the dividends received deduction.

A Non-U.S. Stockholder may be subject to withholding of U.S. federal tax at a 30% rate (or lower applicable treaty rate) on our distributions (including certain redemptions of our common stock). Accordingly, investment in our common stock is likely to be appropriate for a Non-U.S. Stockholder only if such person can utilize a foreign tax credit or corresponding tax benefit in respect of such withholding tax. Non-U.S. Stockholders should consult their own tax advisors with respect to the U.S. federal income and withholding tax, and state, local, and foreign tax, consequences of an investment in our common stock.

We may be required to withhold U.S. federal income tax ( backup withholding ) from all taxable distributions payable to (i) any stockholder who fails to furnish us with its correct taxpayer identification number or a certificate that the stockholder is exempt from backup withholding, and (ii) any stockholder with respect to whom the Internal Revenue Service notifies us that such stockholder has failed to properly report certain interest and dividend income to the Internal Revenue Service and to respond to notices to that effect. We may be required to report annually to the Internal Revenue Service and to each Non-U.S. Stockholder the amount of dividends paid to such stockholder and the amount, if any, of tax withheld pursuant to the backup withholding rules with respect to such dividends. This information may also be made available to the tax authorities in the Non-U.S. Stockholder's country of residence. Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules from payments made to a stockholder may be refunded or credited against such stockholder's United States federal income tax liability, if any, provided that the required information is furnished to the Internal Revenue Service.

## **Competition**

We compete with a large number of private equity and mezzanine funds, investment banks, mutual funds and other equity and non-equity based investment funds, as well as traditional financial services companies such as commercial banks and other sources of financing in connection with our investment activity. Many of these entities have greater financial and managerial resources than we do. We compete with such entities primarily on the basis of the quality of our services, the experience and contacts of our investment adviser, our investment analysis and decision-making processes, and the investment terms we offer in respect of the securities to be issued by our portfolio companies. There can be no assurance that we will be able to successfully compete for attractive investment opportunities.

## **Employees**

Our investment adviser provides all of the personnel necessary to operate our business, and thus we do not have any employees.

## **Item 2. Properties**

The Company does not own or lease any properties.

## **Item 3. Legal Proceedings**

On September 25, 2002, Phillip Goldstein, a director and shareholder of the Company filed a lawsuit in the District Court for the Northern District of Ohio against us, Robert Pinkas, James Oliver, Benjamin Bryan and IVS Associates, Inc. alleging, among other things, that the Company engaged in wrongdoing and that the individual defendants breached their fiduciary duties during the Annual Meeting of Stockholders held on September 17, 2002. Mr. Goldstein alleges that the Company's actions surrounding the closing of the polls disenfranchised certain shareholders. Mr. Goldstein sought to have votes for which he had proxies, which were submitted after the polls were closed, counted. He also sought an order declaring his nominees to be directors of the Company. The Company also asserted a counterclaim against Mr. Goldstein alleging violations of the proxy rules and the failure to disclose his participation in a group as required by Regulation 13D. Mr. Goldstein denied the allegations of the counterclaims. Mr. Goldstein's motion for a temporary restraining order was denied, and a hearing for a

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preliminary injunction was held on November 18-21, 2002. On December 18, 2002, Magistrate Jack B. Streepy issued a report and recommendation that Mr. Goldstein's motion for a preliminary injunction be granted. Both parties filed objections to the Magistrate's report. No order has been issued by the Court to date. On February 13, 2003, the judge set a trial date of March 19, 2003, and on March 19, 2003, the judge issued a 60 day stay of the proceeding.

On March 19, 2003, the Company entered into a Memorandum of Understanding with Phillip Goldstein, a director of the Company, pursuant to which Mr. Goldstein agreed to dismiss the lawsuit he filed against the Company in September 2002, subject to compliance with the Investment Company Act of 1940. The Court approved the proposed settlement on February 26, 2004.

On June 4, 2003, the Company filed an application for exemptive relief from certain provisions of the 1940 Act in order to effect the provisions of the Memorandum of Understanding. On June 18, 2003, the Company received comments on its application from the staff of the Division of Investment Management of the Securities and Exchange Commission. On August 14, 2003 the Company responded to those comments. With such response, the Company proposed a new Memorandum of Understanding that was submitted to the staff of the Division of Investment Management. On November 12, 2003, the Company received comments regarding its August 14, 2003 response. The Company responded to such comments on December 18, 2003. On February 11, 2004, the staff of the Division of Investment Management requested a response from the Board of Directors, which the Board provided on February 15, 2004. The Company continues to discuss this matter with the staff of the Division of Investment Management.

The Memorandum of Understanding is subject to approval by the stockholders, and the receipt of exemptive relief from the SEC. There can be no assurance that this exemptive relief will be granted.

Pursuant to the proposed Memorandum of Understanding the Company would agree, among other things:

to cause there to be four (4) directors who are not interested persons as defined under the 1940 Act and cause the board to be exactly seven (7) directors in total;

if Mr. Goldstein or Gerald Hellerman is no longer a director of the Company then whichever of Mr. Goldstein or Mr. Hellerman remains on the board shall have the right to select a nominee;

to not convert the Company from being an advised fund to an internally managed fund unless a majority of the independent directors agree;

to allow any independent director to request independent counsel, subject to the approval of the board, which cannot be unreasonably withheld; and

to refrain from making defamatory remarks about any party to the agreement.

In addition, the proposed Memorandum of Understanding provides that at the next Annual Meeting of Stockholders:

the Company would ask shareholders to approve a plan of orderly disposition of the assets of the Company or a sale of the assets with the goal of prompt cash distribution to shareholders;

the Company would ask shareholders to approve a new investment advisory agreement pursuant to which, prospectively:

the advisor's fees would be reduced from 2.85% to 2.5% of our net asset value;

all stock options would be forfeited and cancelled; and

the advisor would be entitled to receive a fee equal to 20% of the aggregate distributions made by the Company in excess of \$10.00 per share; however, none of the amount would be paid until aggregate distributions totaled \$12.50 per share.

The proposed Memorandum of Understanding also includes provisions that would require the parties to take all steps necessary to accomplish the goals of the Memorandum, including voting their shares in favor of the proposals. Under the proposed memorandum, the Company would also be required to reimburse Mr. Goldstein



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for certain expenses (not to exceed \$275,000) he incurred in connection with the proxy solicitation and litigation related to the Annual Meeting of Stockholders on September 17, 2002. Mr. Goldstein would also agree not to engage in, lead or fund a proxy contest while the agreement is in effect. The term of the new proposed Memorandum of Understanding would run until December 31, 2006.

If we receive all necessary government and stockholder approvals, the effect of the Memorandum of Understanding will be that we intend to make only follow-on investments, and any remaining proceeds we receive from liquidity events are intended to be distributed to shareholders. See Investment Adviser and Investment Advisory Agreement.

As a result of the Memorandum of Understanding, we intend to make only follow-on investments in our portfolio companies. Otherwise, we will seek to orderly dispose of our assets and distribute any proceeds to our stockholders.

On October 8, 2002, Thomas Kornfeld and Robert Strougo filed a purported class action lawsuit against the Company, the directors of the Company excluding Phillip Goldstein, IVS Associates, Inc. and JMP Securities LLC, alleging a series of derivative and direct claims that the directors have breached their fiduciary duties and that the Company engaged in wrongdoing with respect to the Annual Meeting of Stockholders held on September 17, 2002. The factual allegations are substantially similar to the complaint filed by Mr. Goldstein and also include allegations of conversion of corporate funds. The complaint seeks, among other things, an order declaring Mr. Goldstein's nominees to be directors of the Company, an order declaring that the investment advisory agreement be terminated and damages for breach of fiduciary duty. On January 12, 2003, the plaintiffs filed a motion to consolidate this lawsuit with the lawsuit by Goldstein discussed above, which was subsequently denied.

On October 4, 2002, the Company received notice from the Midwest Regional Office ( MRO ) of the SEC that they were inquiring into activities involving the Annual Meeting. The Company has and will cooperate with the inquiry. The letter from the MRO states that the inquiry should not be construed as an indication by the staff of that office that any violation of law has occurred, or as a reflection upon any person or entity that may be involved. There has been no communication between the MRO and the Company since the fourth quarter of 2002.

**Item 4. Submission of Matters to a Vote of Security Holders**

No matters were submitted to a vote of security holders during the fourth quarter of 2003.

Table of Contents**PART II****Item 5. Market for Registrant's Common Equity and Related Stockholder Matters**

Our common stock is traded on the Nasdaq National Market under the symbol BBDC and historically has traded at prices below our net asset value per share. The following table sets forth, for the periods indicated, our net asset value per share of common stock and the high and low sales prices per share of our common stock. Prior to September 23, 1999, our common stock traded on the Nasdaq SmallCap Market under the same symbol. On March 26, 2004, the last reported sales price of our common stock was \$4.23 per share.

	Net Asset Value per Share(1)	Range of Sales Prices	
		High	Low
<b><i>Year ended December 31, 2003</i></b>			
First Quarter	18.37	8.94	6.04
Second Quarter	17.78	8.90	8.00
Third Quarter	18.44	9.88	7.52
Fourth Quarter	17.34	11.13	8.80
<b><i>Year ended December 31, 2002</i></b>			
First Quarter	17.85	11.00	9.62
Second Quarter	17.78	10.80	8.92
Third Quarter	17.57	10.00	7.79
Fourth Quarter	17.29	8.90	7.01

(1) Net asset value per share is determined as of the last day in the relevant quarter and therefore may not reflect the net asset value per share on the date of the high or low sales price. The net asset values shown are based on outstanding shares at the end of each period.

Since our initial public offering, we have distributed more than 98% of our ordinary income and 98% of our capital gain net income to our stockholders on an annual basis. For the years ended 2003, 2002, and 2001, we declared dividends of \$0.69, \$0.00 and \$0.19, respectively.

Our current intention is to continue distributing our ordinary income and our short-term capital gains on an annual basis to our stockholders. We may also choose to distribute some or all of our net realized long-term capital gains. Pursuant to our Memorandum of Understanding with Mr. Goldstein, we have agreed to distribute proceeds from the disposition of our assets to stockholders upon receipt of appropriate approvals. There can be no assurance as to the timing or amounts of these distributions. See Item 3. Legal Proceedings.

We maintain an opt out dividend reinvestment and cash purchase plan for our stockholders. Under the plan, if shares of our common stock are registered in your name, dividends will be automatically reinvested in additional shares of common stock unless you opt out of the plan.

The Company made no common stock repurchases during 2003.

**Table of Contents****Item 6. Selected Financial Data**(all figures in thousands except per share data)  
(years ended December 31)

	2003	2002	2001	2000	1999	1998	1997	1996
<b>Financial Position</b>								
Total assets	\$77,853	\$73,747	\$75,534	\$58,471	\$54,991	\$50,456	\$43,825	\$36,620
Note payable	7,500	6,000	6,000	6,000				
Net assets	66,091	65,900	68,006	51,943	52,440	49,941	42,912	36,142
<b>Changes in Net Assets</b>								
Net investment income (loss)	2,657	(2,158)	(1,208)	145	320	(69)	31	(7)
Net gain on investments	164	52	18,007	1,734	3,932	7,137	5,683	
Net change in net assets from operations	2,821	(2,106)	16,800	1,879	4,252	7,068	5,713	(7)
Dividends	2,630	0.00	736	2,376	1,753	38	444	
<b>Per Share Data</b>								
Net assets	17.34	17.290	17.850	13.630	13.760	13.110	11.260	9.870
Closing market price	10.20	7.700	10.890	8.625	8.000	7.125	9.630	10.000
Cash dividends	0.69	0.00	0.19	0.620	0.460	0.010	0.120	

**Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations**  
**General***Overview*

We are a non-diversified investment company that is regulated as a business development company under the Investment Company Act of 1940. We provide equity and long-term debt financing to small and medium-sized private companies in a variety of industries throughout the United States. Our investment objective is to achieve long-term capital appreciation in the value of our investments and to provide current income primarily from interest, dividends and fees paid by our portfolio companies.

Historically, we have focused our investing activities on private equity securities. We generally structure our private equity investments as participating preferred stock with an 8% to 10% dividend yield that accumulates and is paid upon a liquidity event. Our private equity investments typically range from \$1 million to \$5 million, and we generally expect these investments to achieve liquidity within three to five years. We typically do not receive a cash return on our private equity investments until a liquidity event occurs, but instead seek to achieve long-term capital appreciation in net asset value through such investments.

On March 19, 2003, the Company entered into a Memorandum of Understanding with Phillip Goldstein, a director of the Company, pursuant to which Mr. Goldstein agreed to dismiss the lawsuit he filed against the Company in September 2002, subject to compliance with the Investment Company Act of 1940. The Court approved the proposed settlement on February 26, 2004.

On June 4, 2003, the Company filed an application for exemptive relief from certain provisions of the 1940 Act in order to effect the provisions of the Memorandum of Understanding. On June 18, 2003, the Company received comments on its application from the staff of the Division of Investment Management of the Securities and Exchange Commission. On August 14, 2003 the Company responded to those comments. With such response, the Company proposed a Memorandum of Understanding that was submitted to the staff of the Division of Investment Management. On November 12, 2003, the Company received comments regarding its August 14, 2003 response. The Company responded to such comments on December 18, 2003. On February 11, 2004, the staff of the Division of Investment Management requested a response from the Board of Directors, which the Board provided on February 15, 2004. The Company is in the process of responding to additional oral comments from the staff of the Division of Investment Management.

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The Memorandum of Understanding is subject to approval by the stockholders, and the receipt of exemptive relief from the SEC. There can be no assurance that this exemptive relief will be granted.

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Pursuant to the proposed Memorandum of Understanding the Company would agree, among other things:

to cause there to be four (4) directors who are not interested persons as defined under the 1940 Act and cause the board to be exactly seven (7) directors in total;

if Mr. Goldstein or Gerald Hellerman is no longer a director of the Company then whichever of Mr. Goldstein or Mr. Hellerman remains on the board shall have the right to select a nominee;

to not convert the Company from being an advised fund to an internally managed fund unless a majority of the independent directors agree;

to allow any independent director to request independent counsel, subject to the approval of the board, which cannot be unreasonably withheld; and

to refrain from making defamatory remarks about any party to the agreement.

In addition, the proposed Memorandum of Understanding provides that at the next Annual Meeting of Stockholders:

the Company would ask shareholders to approve a plan of orderly disposition of the assets of the Company or a sale of the assets with the goal of prompt cash distribution to shareholders;

the Company would ask shareholders to approve a new investment advisory agreement pursuant to which, prospectively:

the advisor's fees would be reduced from 2.85% to 2.5% of our net asset value;

all stock options would be forfeited and cancelled; and

the advisor would be entitled to receive a fee equal to 20% of the aggregate distributions made by the Company in excess of \$10.00 per share; however, none of the amount would be paid until aggregate distributions totaled \$12.50 per share.

The proposed Memorandum of Understanding also includes provisions that would require the parties to take all steps necessary to accomplish the goals of the Memorandum, including voting their shares in favor of the proposals. Under the proposed memorandum, the Company would also be required to reimburse Mr. Goldstein for certain expenses (not to exceed \$275,000) incurred in connection with the proxy solicitation and litigation related to the Annual Meeting of Stockholders on September 17, 2002. Mr. Goldstein would also agree not to engage in, lead or fund a proxy contest while the agreement is in effect. The term of the new proposed Memorandum of Understanding would run until December 31, 2006.

If we receive all necessary government and stockholder approvals, the effect of the Memorandum of Understanding will be that we intend to make only follow-on investments, and any remaining proceeds we receive from liquidity events are intended to be distributed to shareholders. See Investment Adviser and Investment Advisory Agreement.

*Critical Accounting Policies and Estimates*

Privately placed equity and mezzanine securities are carried at fair value as determined in good faith by our board of directors. Initially, the fair value of each such security is based upon its original cost. Cost is also the primary factor used to determine fair value on an ongoing basis until significant developments or other factors affecting the investment (such as results of subsequent financings, the availability of market quotations, the portfolio company's operations and changes in general market conditions) provide a basis for value other than cost.

Portfolio investments listed on a securities exchange or traded on the Nasdaq Stock Market are valued at the closing price listed on the relevant exchange or quotation system on the date of valuation. Securities traded in the over-the-counter market are valued based on the average of the closing bid and asked prices on the date of valuation. Interest income is recorded on mezzanine investments when the payment is contractually due unless a loan is more than 30 days past due. Interest is not accrued on any loans that are more than 30 days past due. Dividend income is recorded on cumulative preferred equity securities on an accrual basis to the extent that such

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amounts are expected to be collected and on common equity securities on the record date for private companies or on the ex-dividend date for publicly traded companies. We assess the collectibility of dividends and interest income receivables in connection with our determination of the fair value of the related security. To the extent that there are adverse future developments, previously recognized dividend and interest income may not be realized.

We account for our operations utilizing accounting principles generally accepted in the United States of America for investment companies. On this basis, the principal measure of our financial performance is captioned Net change in net assets resulting from operations, which is the sum of two elements. The first element is Investment income (loss), net, which is the difference between (1) our income from interest, dividends and fees, and (2) our operating expenses. The second element is Net gain (loss) on investments, which is the sum of (1) the difference between the proceeds received from our dispositions of portfolio securities and their stated cost ( Net realized gain (loss) on investments ), and (2) the net change in the fair value of our investment portfolio ( Net unrealized gain (loss) on investments ). Net realized gain (loss) on investments and Net unrealized gain (loss) on investments are directly related. For example, in the period during which a security is sold to realize a gain, net unrealized gain on investments decreases, and net realized gain on investments increases.

Historically, we have focused our investing activities on private equity securities. We began making such investments in 1997 and are now entering into a phase of the business plan which emphasizes positioning our more mature portfolio companies for appropriate liquidity events. As a result, we are continuously monitoring portfolio company results and evaluating opportunities to maximize the valuation of our investments. In that regard, we periodically evaluate potential acquisitions, financing transactions, initial public offerings, strategic alliances, and sale opportunities involving our portfolio companies. Any such transaction could have an impact on the valuation of our investments. These transactions and activities are generally not disclosed to our stockholders and the investing public until such time as the transactions are publicly announced or completed, as the case may be.

## **Results of Operations**

### *Dividend and Interest Income*

Dividend and interest income on investments for the years ended December 31, 2003, 2002 and 2001 were \$5,970,522, \$2,913,667 and \$1,581,837, respectively. The increase in interest and dividend income during the year ended December 31, 2003 was primarily due to the income received as a result of the recapitalization of Fitness Quest, Inc. as more fully described below. The increase in interest and dividend income during the year ended December 31, 2002 was primarily due to the private equity portfolio being fully invested during 2002 thereby generating additional dividend income. In addition, we received special dividends of \$845,310 from Fitness Quest, Inc. during 2002.

### *Operating Expenses*

Total operating expenses during the years ended December 31, 2003, 2002 and 2001 were \$3,313,967, \$5,072,064 and \$2,789,513, respectively. A significant component of total operating expenses was advisory fees of \$1,952,808, \$1,901,941 and \$1,631,885 earned by our investment adviser during the years ended December 31, 2003, 2002 and 2001, respectively. The increases in advisory fees are a result of the increases we have experienced in net asset value. A second component of total operating expenses was professional fees of \$70,031, \$1,929,878, and \$309,759 during the years ended December 31, 2003, 2002, and 2001 respectively. The increase in professional fees during 2002 reflected the cost of the proxy contest and resulting litigation including the accrual of the reimbursement of legal fees and proxy costs, and the write-off of prepaid offering costs due to our decision not to proceed with the previously announced rights offering. We have accrued \$275,000 in connection with Phillip Goldstein's proxy and litigation costs. Payment of such amounts are subject to the receipt of exemptive relief from the SEC and compliance with the Investment Company Act of 1940.

**Table of Contents***Net Realized and Unrealized Gains on Investment Transactions*

During the years ended December 31, 2003, 2002 and 2001, valuation of our equity and mezzanine investments resulted in net realized and unrealized gains on investments of \$163,954, \$52,411 and \$18,007,426, respectively. At December 31, 2003, and 2002, we had investments in eleven privately-held companies, respectively. The net realized and unrealized gains during such periods were significantly influenced by general stock market and business conditions, as well as the December 21, 2001 revaluation of Flight Options International, Inc. and the 2003 write-offs of Petroleum Partners, Inc. which are more fully described below.

**Financial Condition, Liquidity and Capital Resources**

At December 31, 2003 and 2002, we had \$4,688,731 and \$237,154, respectively, in cash and cash equivalents which were primarily invested in United States Treasury securities. Restricted cash is held under direction of the lender and is not readily available to fund investments or pay operating expenses.

Our management generally believes that our cash and cash equivalents, together with proceeds from our investments, will provide us with the liquidity necessary to pay our operating expenses and make follow-on investments as necessary. However, because of the inherent uncertainty with respect to the timing of liquidity events, the Company entered into a \$1.5 million short-term note arrangement with Huntington National Bank in March 2003 for the purpose of paying operating expenses pending potential liquidity events. The note is unsecured and carries an interest rate of prime plus 1% (5.25% at December 31, 2003). As of December 31, 2003 \$1.5 million has been drawn down on the note.

At December 31, 2003 and 2002, we had stockholders' equity of \$66,090,665 and \$65,900,328, respectively, resulting in a net asset value per share of \$17.34 and \$17.29, respectively.

At December 31, 2003, we had \$7,500,000 of outstanding indebtedness. For the year ended December 31, 2003, the weighted average interest rate on this indebtedness was 4.2%.

Brantley Venture Partners II, L.P., Brantley Venture Partners III, L.P. and Brantley Partners IV, L.P. hold, in the aggregate, approximately \$152 million of private equity investments. These partnerships are related to our investment adviser in a manner that required the receipt, from the Securities and Exchange Commission, of an exemption from certain provisions of the Investment Company Act of 1940 in order to permit us, under certain circumstances, to invest in the same portfolio companies as the other private investment funds managed by our investment adviser.

We intend to use our cash to make only follow on investments in the future, and distribute any remaining proceeds from liquidity events to stockholders.

At December 31, 2003 and December 31, 2002, the aggregate cost of the investments we made to date was \$25.2 million and \$30.3 million, respectively, and their aggregate market value was \$60.4 million and \$62.1 million, respectively, for an aggregate fair value appreciation of 140% and 109%, respectively. Our management believes that our portfolio companies have potential for long-term growth in sales and earnings.

We did not have any material off-balance sheet arrangements, as defined in Item 303(a) of Regulation S-K under the Exchange Act for the fiscal year ended December 31, 2003.

Our contractual obligations as of December 31, 2003 are:

Contractual Obligations	Total	Payments Due			
		Less than 1 year or on demand	1 to 3 years	3 to 5 years	More than 5 years
Debt Obligations	\$7,500,000	\$7,500,000	—	—	—
Total Contractual Obligations	\$7,500,000	\$7,500,000	—	—	—



**Table of Contents***Private Portfolio Company Investments*

The following is a list of the private companies in which we had an investment and the cost and fair value of such securities at December 31, 2003.

<b>Name of Company</b>	<b>Nature of its Principal Business</b>	<b>Cost</b>	<b>Fair Value</b>
Disposable Products Company, LLC	Non-Woven Paper Products Manufacturer	3,865,993	3,109,332
Fitness Quest, Inc.	Fitness Products Direct Marketer	2,225,620	11,186,539
Flight Options International, Inc.	Private Air Travel Services	5,562,500	32,500,000
Health Care Solutions, Inc.	Home Health Care Provider	1,573,210	1,602,611
The Holland Group, Inc.	Temporary Staffing	2,125,000	2,125,000
National Rehab Partners, Inc.	Rehabilitation Services	1,481,513	1,481,513
Integrated Physician Solutions, Inc.	Pediatric Physician Practice Management Group	3,839,448	3,864,348
Prime Office Products, Inc.	Office Products Distributor	1,500,000	1,500,000
Streamline Foods, Inc.	Food Products Manufacturer and Distributor	795,000	795,000
Value Creation Partners, Inc.	Food Products Manufacturer and Distributor	2,145,460	2,225,960
International Total Services, Inc.	Security	68,410	101
	<b>Total</b>	<b>\$25,182,154</b>	<b>\$60,390,404</b>

Our individually significant equity and mezzanine investments at December 31, 2002 are described below:

*Disposable Products Company, LLC*

On August 10, 1998, we entered into an investment led by Banc One Capital to provide \$1.0 million of a \$3.0 million subordinated debt facility with warrants for Disposable Products Company, LLC. Disposable Products is an acquisition strategy company in the business of manufacturing and converting paper and non-woven materials into wiping products for sale to commercial, institutional, industrial and government markets. In addition, Disposable Products is a converter and reseller of other safety and industrial/ janitorial products. Proceeds of the transaction were used to complete Disposable Products' first acquisition. The terms of the debt facility call for a 12% interest rate per annum with a final maturity in 2003 that has been extended. We also received a detachable capital stock purchase warrant exercisable for 65% of the fully-diluted capital stock of Disposable Products at the time of exercise at a nominal exercise price. In addition, through December 31, 2003 we funded additional 12% promissory notes of \$2,865,993 from Disposable Products.

*Fitness Quest, Inc*

On December 16, 1997, we funded a \$1.35 million commitment to invest with Brantley Venture Partners III, L.P. in a \$3.85 million preferred stock issue for Fitness Quest, Inc. As a result, we purchased approximately 788,961 shares of Fitness Quest Series A 10% Convertible

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Preferred Stock at \$1.71 per share. Fitness Quest is a direct marketing and distribution company. The proceeds were used by Fitness Quest for a management buy-out of the company from its previous owner, The Time Warner Music Group, a 100% wholly owned subsidiary of Time Warner, Inc., and for other acquisitions. Fitness Quest has been in the fitness promotional products business since 1994. Fitness Quest operates in a highly competitive industry and is dependent on the management talent and efforts of key personnel for its success. We do not believe that Fitness Quest is dependent on a single or small number of customers, possesses significant intellectual property, or is operating in an unusually regulated industry.

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During 1997, Fitness Quest increased its revenue and improved its operating margins and profits. After a complete evaluation, our board of directors re-valued our Fitness Quest investment to \$5,440,000, resulting in a 1997 unrealized gain of \$4,090,000. This evaluation was based on price to earnings ratios, cash flow multiples and other appropriate financial measurements of similar private companies. In addition to the above Series A 10% Convertible Preferred Stock, we funded \$1,751,300 to invest with Brantley Venture Partners III, L.P. in a \$3.5 million 10% senior subordinated debt investment in Fitness Quest in 2000. In addition, we received a warrant to purchase 181,172 shares of Fitness Quest common stock for \$0.01 per share. The proceeds of the most recent investment were used to fund Fitness Quest's working capital needs. During the fourth quarter of 2000, we exchanged the senior subordinated debt investment and related unpaid interest for 679,641 shares of Fitness Quest common stock.

Through March 31, 2003, Fitness Quest had continued to increase its revenues, improve its operating margins, and reduce its debt. As a result, the Board of Directors increased the value of the investment to \$15,000,000 resulting in an unrealized gain of \$6,341,959 for the quarter ending March 31, 2003.

On July 31, 2003, Fitness Quest successfully completed a recapitalization of the company. As a result of this transaction, we received a distribution from Fitness Quest of \$7.3 million, including special and ordinary dividends of \$5,234,338, of which \$567,000 was in repayment of previously accrued preferred stock dividends. Subsequent to this transaction, we maintain a 15.1% ownership interest in the company with an estimated fair value of \$11.2 million.

*Flight Options International, Inc. (Formerly Corporate Wings, Inc.)*

On December 23, 1997, we funded \$2.1 million to invest with Brantley Venture Partners III, L.P. in a \$6.0 million preferred stock issue for Flight Options International, Inc. Our investment consists of approximately 2,576,000 shares of Flight Options Series A 8% Convertible Preferred Stock at \$0.8152 per share. Flight Options provides complete private air travel service through the sale of fractional interests in pre-owned jet aircraft. The proceeds of the transaction were used by Flight Options to continue to execute an acquisition strategy. We believe Flight Options is one of the top five providers of fractional interests in aircraft in the United States, a highly competitive industry and is dependent on the management talent and efforts of key personnel for its success. Flight Options is subject to certain regulations of the Federal Aviation Administration. We do not believe it is dependent on a single or small number of customers or possesses significant intellectual property.

On December 29, 1998, we completed a second private equity investment in Flight Options. In this investment, we purchased \$962,500 of a \$5.5 million preferred stock transaction led by The Provident Bank. Our purchase represents approximately 260,135 shares of Class A 8% Convertible Preferred Stock at \$3.70 per share. The proceeds were used by Flight Options to fund the expansion of its fractional ownership program and to continue to execute its acquisition strategy. During 1998, Flight Options completed the acquisition of Miller Aviation. Based upon the price of this subsequent financing and the operating performance of Flight Options during 1998, the fair value of our original investment was increased to \$9,531,760, resulting in an unrealized gain of \$7,431,760. This valuation was based on the \$3.70 per share price negotiated by The Provident Bank and was approved by our board of directors.

On August 31, 1999, Flight Options sold \$20 million of Series B 8% Preferred Stock to a third party private equity group at \$4.365 per share. Consistent with our investment valuation guidelines, this transaction resulted in a valuation increase on our Flight Options investment of \$1,886,030 or \$0.50 per share.

On July 11, 2000, we guaranteed a portion of Flight Options' third-party borrowings. As a result, we were issued a warrant to purchase 36,000 shares of Flight Options common stock at a price of \$0.01 per share. This guarantee was terminated prior to December 12, 2000.

On December 12, 2000 we purchased 469,925 shares of Flight Options Class C 8% Preferred Stock at \$5.32 per share for a total investment of \$2.5 million. The proceeds of the transaction were used by Flight Options to fund the continued expansion of its fractional ownership program.

On June 30, 2001, Flight Options received offers from institutional investors to purchase convertible preferred stock or subordinated debt securities of Flight Options which support the valuation used to complete the

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December 12, 2000 Class C 8% Preferred Stock transaction described in the preceding paragraph. As a result, and consistent with our investment valuation guidelines, our board of directors approved a valuation increase on the Flight Options investment which resulted in our reporting an unrealized gain of \$2,742,889 or \$0.72 per share for the quarter ended June 30, 2001.

On December 21, 2001, Flight Options, Inc. and Raytheon Travel Air, a Wichita, Kansas-based unit of Raytheon Company, a Lexington, Mass. based defense contractor, agreed to combine operations into one fractional aircraft ownership program to be known as Flight Options. Under the terms of the transaction, Flight Options, Inc. holds 50.1% ownership of the new business with Raytheon holding 49.9%. The transaction was completed during the quarter ended March 31, 2002. During the second quarter of 2003, Raytheon Company provided additional debt and equity financing to Flight Options.

As a result of the transaction described above, our board of directors have met to review the terms of the then current transactions. Consistent with our valuation guidelines, the board has used private market methods to value our investment in Flight Options, Inc. and approved an increase in the value of our investment in Flight Options, Inc. to its current \$32.5 million. At December 31, 2003, the financial statement value of our investment in Flight Options represents an increase of more than 484% from its original purchase price.

*Health Care Solutions, Inc.*

On September 30, 1997, we funded a \$1.5 million convertible junior subordinated promissory note facility for Health Care Solutions, Inc. Health Care Solutions is an acquisition strategy company in the home healthcare services market with a strong presence in the Midwest and Great Lakes regions. The terms of the notes called for an 18% interest rate per annum during the first year and 12% per annum thereafter, with final maturity two years from the closing. After the first year, the notes were convertible into common stock at a price of \$3.50 per share. In connection with our commitment to provide this facility, we received warrants to purchase up to \$450,000 of common stock valued at an exercise price of 10% of an initial public offering price completed during the term of the notes, or at \$3.50 per share should the warrants be exercised other than in connection with an initial public offering. The warrants are currently exercisable. The proceeds of the notes were used by Health Care Solutions to help finance acquisitions.

In 2000, Health Care Solutions completed a re-capitalization plan, including a two-for-one reverse stock split. As a result, we agreed to exchange our convertible junior subordinated promissory note and accrued interest thereon for 246,994 shares of Series C 8% Convertible Preferred Stock at an exchange rate of \$7.50 per share. The warrants to purchase up to \$450,000 of common stock at an exercise price of 10% of an initial public offering price or at \$3.50 per share remain outstanding and have been adjusted to reflect the reverse stock split.

In addition to the above Series C 8% Convertible Preferred Stock, we funded \$500,000 and \$299,000 12% Convertible Subordinated Notes from Health Care Solutions in 2000. As part of this transaction, we received a warrant to purchase up to \$50,000 of Health Care Solutions common stock at an exercise price equal to the lower of the price determined by an initial public offering or \$7.50 per share. On March 7, 2001, we agreed to exchange the \$500,000 Convertible Subordinated Note for 71,880 shares of Series D Convertible Preferred Stock. On January 29, 2002, we funded a \$1,250,000 12% Convertible Subordinated Note from Health Care Solutions.

On May 1, 2003, Health Care Solutions sold its respiratory division assets. Through July 31, 2003, Health Care Solutions sold its remaining operating assets. As a result of these transaction, we have received \$1,975,853 in proceeds and expect to receive additional proceeds of approximately \$1.0 to \$1.5 million over the next 18 months. The remaining corporate assets of Health Care Solutions are presently being marketed for a projected sale in 2004. The current valuation approximates the total proceeds expected to be received from these sales.

*The Holland Group, Inc.*

On July 13, 2000, we funded a \$2.1 million commitment to invest with Brantley Partners IV, L.P. in a \$8.5 million preferred stock issue of The Holland Group, Inc. The Holland Group is a provider of temporary staffing and human resource management services that currently operates 35 branches in five states. In this transaction, we purchased 282,530 shares of The Holland Group's Series A 8% Convertible Preferred Stock. In

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February 2002 we purchased a \$50,000 12% convertible subordinated note from The Holland Group which was repaid with interest in December 2002.

*National Rehab Partners, Inc.*

On August 10, 1999, we funded \$1.455 million of a \$1.5 million commitment to invest with Brantley Partners IV, L.P. and a third party equity group in a \$12.0 million preferred stock issue for National Rehab Partners, Inc. Pursuant to this commitment, we purchased 2.2 million shares of Class A 8% Convertible Preferred Stock. The proceeds of this transaction were used to complete the acquisition of a group of rehabilitation management service providers. The remainder of the commitment is being funded upon the successful closing of additional acquisitions. National Rehab Partners is a Brentwood, Tennessee rehabilitation management service company providing rehabilitation services through acute care hospitals and hospital systems throughout the United States. National Rehab Partners is the only national rehabilitation company focused exclusively on helping hospitals develop their outpatient rehabilitation services.

On January 10, 2001, we funded a \$26,126 10% promissory note from National Rehab Partners. On June 13, 2001, the \$26,126 note and the related accrued interest were cancelled and replaced with a \$27,228 10% promissory note.

*Integrated Physician Solutions, Inc. (Formerly Pediatric Physicians Alliance, Inc.)*

On January 28, 1999, we funded a \$3.2 million commitment to invest with Brantley Venture Partners III, L.P. in a \$7.9 million preferred stock issue for Integrated Physician Solutions, Inc. Pursuant to our commitment, we purchased 793,000 shares of Class A-2 10% Convertible Preferred Stock. Integrated Physician Solutions is a physician practice management systems provider. Their objective is to develop the leading integrated physician practice management system in the United States. Integrated Physician Solutions is dependent on the management talent and effort of key personnel for its success in this highly competitive industry. We do not believe it is dependent on a single or small number of customers, possesses significant intellectual property or that it is subject to significant regulations. The proceeds of the transaction were used to complete the acquisition of a number of physician practices.

In addition to the above Class A-2 10% Convertible Preferred Stock, we have funded \$667,448 in promissory notes, with detachable warrants, in Integrated Physician Solutions. The detachable warrants are for the purchase of 30,000 shares of Integrated Physician Solutions common stock at \$4.00 per share.

*Petroleum Partners, Inc.*

On June 7, 2001, we entered into a \$2.7 million commitment to invest with Brantley Partners IV, L.P. in a \$15.0 million preferred stock and subordinated debt issue for Petroleum Partners, Inc. In connection with this commitment, we purchased 250,000 shares of Class A 8% Convertible Preferred Stock at \$1.00 per share, 600,000 shares of Class B 8% Convertible Preferred Stock at \$2.00 per share, and funded a \$1,250,000 10% Convertible Subordinated Note with a detachable warrant for the purchase of 78,125 shares of common stock at \$0.01 per share. Petroleum Partners, based in Cleveland, Ohio, is a provider of outsourced maintenance services to the petroleum industry's retailers and refineries. The proceeds from the transaction were used to acquire a company which is a leading provider of petroleum and petrochemical handling equipment and outsourced facilities maintenance services to providers of fuel delivery systems such as gasoline retailers and refineries. The equipment distributed by the company includes petroleum storage tanks, pumps, fuel dispensers, flexible piping, tank valves, leak detection gauges, canopies, air compressors and service station lighting equipment.

In addition to the above investment, we funded \$1,875,000 of 10% Convertible Subordinated Notes through December 31, 2002. The proceeds of the notes were used for operating purposes.

As a result of adverse operating performance, the Board of Directors approved a valuation reduction of our investment to \$1,874,219 thereby generating a \$1,450,781 unrealized loss for the quarter ended March 31, 2003. At that time, the Board of Directors also approved a write-off of all interest and dividends receivable relating to this investment of \$517,886. For the quarter ended June 30, 2003, the Board of Directors approved a second valuation reduction in our investment by \$1,874,219 thereby generating a year to date unrealized loss of \$3,325,000.

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*Prime Office Products, Inc. (Formerly Business Essentials, Inc.)*

On April 22, 1999, we entered into a \$1.7 million commitment to invest with Brantley Partners IV, L.P. and Massey Burch Capital Corp. in a \$10.0 million preferred stock issue for Prime Office Products, Inc. Pursuant to our commitment, we purchased 510,000 shares of Class A 8% Convertible Preferred Stock at \$2.00 per share. Prime Office Products is an office products marketing and distribution company based in Nashville, Tennessee. The first part of the commitment was funded to launch an acquisition strategy focused on office distribution companies serving primarily commercial and industrial customers. The remainder of the commitment is being funded upon the closing of additional acquisitions. On January 8, 2002, we purchased an additional 200,000 shares of Class A 8% Convertible Preferred Stock at \$2.00 per share. On July 31, 2002, we purchased an additional 40,000 shares of Class A 8% Convertible Preferred Stock at \$2.00 per share.

*Streamline Foods, Inc.*

On February 7, 2002 we funded a \$795,000 commitment to invest with Brantley Partners IV, L.P. in a \$7,950,000 preferred stock and subordinated debt issue for Streamline Foods, Inc. Pursuant to our commitment we purchased approximately 898,000 shares of Series A 8% Convertible Preferred Stock at \$0.78 per share and a \$95,000 13% Convertible Subordinated Note with warrants to purchase 27,500 shares of common stock at \$0.01 per share. The proceeds were used by Streamline Foods for a buy-out of the Company from its previous owner. Streamline Foods, Inc. sources, blends, packages and distributes high sugar content food products for branded multi-national food companies and private label manufacturers.

*Value Creation Partners, Inc.*

On June 14, 2000, we completed a \$2.1 million commitment to invest with Brantley Partners IV, L.P. and several other private equity investors in a \$23.8 million preferred stock issue for Value Creation Partners, Inc. Pursuant to this commitment, we purchased approximately 35,000 shares and 269,989 shares of 8% Convertible Preferred Stock at \$5.00 and \$7.30 per share, respectively. Value Creation Partners is an acquisition strategy company in the food industry. The proceeds of the transaction were used to complete the acquisition of Best Brands, Inc., one of the six largest manufacturers and distributors of a complete line of premium ingredients, mixes and products, including equipment, for all segments of the baking industry. Their products are sold primarily to retail bakeries, bakery distributors, supermarket in-store bakeries, food wholesalers and food service establishments.

*Small-Capitalization Public Equity Investments*

As the Company's assets became more fully invested, we made the decision to dedicate the remaining available capital to our private company investment activities. As a result, we liquidated our small-capitalization public stock portfolio in the third quarter of 2002.

*Related Party Information*

The Investment Adviser, pursuant to the terms of the Investment Advisory Agreement, is responsible, on a day-to-day basis, for the selection and supervision of portfolio investments. Transactions between the Company and the Investment Adviser, including operational responsibilities, duties and compensation, are governed by the Investment Advisory Agreement. The Company currently pays to the Investment Adviser an annual management fee of 2.85% of the Company's net assets, determined at the end of each calendar quarter and payable in arrears. For the year ended December 31, 2003, the Investment Adviser was owed an investment advisory fee in the aggregate amount of \$473,474. Robert P. Pinkas, Chairman of the Board, Chief Executive Officer, Treasurer and a director, Paul H. Cascio, a Vice President and a director of the Company, Michael J. Finn, President of the Company, and Tab A. Keplinger, Chief Financial Officer of the Company, are officers and managers of the Investment Adviser, and together own a majority of the Investment Adviser. As stated above in Item 1 (Business - Potential Co-Investments and Follow-On Investments) and in Item 8 (Note 5 of the notes accompanying the financial statements in Financial Statements and Supplementary Data), the Company co-invests in portfolio companies from time to time with affiliates of the Company and the Investment Adviser, including certain venture capital investment partnerships. Certain officers and directors of the Company and officers of the Investment Adviser also serve as general partners of the investment partnerships - general partner. The Company's co-investments with such affiliates are subject to the terms and conditions of the exemptive order

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granted by the Commission, which relieves the Company from certain provisions of the Act and permits certain joint transactions with the investment partnerships.

The Company is an investor in Disposable Products Company, LLC ( DPC ), as discussed in the Company's Management, Discussion and Analysis of Financial Condition and Results of Operations in Item 7 of this Annual Report on Form 10-K. Grand River Industries, Ltd. ( Grand River ) owns 85% of DPC. Grand River is a limited liability company that is 100% owned by Objective Industrial Investments Partners, L.P. ( Objective ). Robert P. Pinkas, Chairman and Chief Executive Officer of the Company, is a managing member in Objective. Mr. Pinkas, as a result of this investment commitment in Objective, owns 20% of Grand River.

James P. Oliver has been a director of the Company since 1998 and is a partner with the law firm of Squire Sanders & Dempsey L.L.P., which has represented the Company as general counsel since shortly after its formation in 1996.

On March 19, 2003, the Company entered into a Memorandum of Understanding with Phillip Goldstein, a director of the Company, pursuant to which Mr. Goldstein agreed to dismiss the lawsuit he filed against the Company in September 2002, subject to compliance with the Investment Company Act of 1940. The Court approved the proposed settlement on February 26, 2004.

On June 4, 2003, the Company filed an application for exemptive relief from certain provisions of the 1940 Act in order to effect the provisions of the Memorandum of Understanding. On June 18, 2003, the Company received comments on its application from the staff of the Division of Investment Management of the Securities and Exchange Commission. On August 14, 2003 the Company responded to those comments. With such response, the Company proposed a Memorandum of Understanding that was submitted to the staff of the Division of Investment Management. On November 12, 2003, the Company received comments regarding its August 14, 2003 response. The Company responded to such comments on December 18, 2003. On February 11, 2004, the staff of the Division of Investment Management requested a response from the Board of Directors, which the Board provided on February 15, 2004. The Company is in the process of responding to additional oral comments from the staff of the Division of Investment Management.

The Memorandum of Understanding is subject to approval by the stockholders, and the receipt of exemptive relief from the SEC. There can be no assurance that this exemptive relief will be granted.

Pursuant to the proposed Memorandum of Understanding the Company would agree, among other things:

to cause there to be four (4) directors who are not interested persons as defined under the 1940 Act and cause the board to be exactly seven (7) directors in total;

if Mr. Goldstein or Gerald Hellerman is no longer a director of the Company then whichever of Mr. Goldstein or Mr. Hellerman remains on the board shall have the right to select a nominee;

to not convert the Company from being an advised fund to an internally managed fund unless a majority of the independent directors agree;

to allow any independent director to request independent counsel, subject to the approval of the board, which cannot be unreasonably withheld; and

to refrain from making defamatory remarks about any party to the agreement.

In addition, the proposed Memorandum of Understanding provides that at the next Annual Meeting of Stockholders:

the Company would ask shareholders to approve a plan of orderly disposition of the assets of the Company or a sale of the assets with the goal of prompt cash distribution to shareholders;

the Company would ask shareholders to approve a new investment advisory agreement pursuant to which, prospectively:

the advisor's fees would be reduced from 2.85% to 2.5% of our net asset value;

all stock options would be forfeited and cancelled; and



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the advisor would be entitled to receive a fee equal to 20% of the aggregate distributions made by the Company in excess of \$10.00 per share; however, none of the amount would be paid until aggregate distributions totaled \$12.50 per share.

The proposed Memorandum of Understanding also includes provisions that would require the parties to take all steps necessary to accomplish the goals of the Memorandum, including voting their shares in favor of the proposals. Under the new proposed memorandum, the Company would also be required to reimburse Mr. Goldstein for certain expenses (not to exceed \$275,000) he incurred in connection with the proxy solicitation and litigation related to the Annual Meeting of Stockholders on September 17, 2002. Mr. Goldstein would also agree not to engage in, lead or fund a proxy contest while the agreement is in effect. The term of the new proposed Memorandum of Understanding would run until December 31, 2006.

If we receive all necessary government and stockholder approvals, the effect of the Memorandum of Understanding will be that we intend to make only follow-on investments, and any remaining proceeds we receive from liquidity events are intended to be distributed to shareholders.

**Item 7A. Quantitative and Qualitative Disclosures about Market Risk**

We have invested in small and medium-sized companies, and our investments are considered speculative in nature. Our investments often include securities that are subject to legal or contractual restrictions on resale that adversely affect the liquidity and marketability of such securities. As a result, we are subject to risk of loss which may prevent our stockholders from achieving price appreciation and dividend distributions. The portion of our portfolio consisting of investments in private companies is also subject to valuation risk. We value our privately held investments based on a determination of their fair value made in good faith by our board of directors on a quarterly basis in accordance with our established guidelines. In the absence of a readily ascertainable market value, the estimated values of our investments may differ significantly from the values that would exist if a ready market for these securities existed. Any changes in valuation are recorded in our consolidated statements of operations as Net unrealized gain (loss) on investments.

We consider the management of equity price risk essential to conducting our business. Our portfolio consists of investments in private companies. We anticipate no impact on these investments from modest changes in public market equity prices. However, should significant changes in market prices occur, there could be a long-term effect on valuations of private companies, which could affect the carrying value and the amount and timing of gains realized on these investments. This could also affect our ability to generate cash through the sale of private equity investments, since there may not be realistic initial public offering opportunities.

**Impact of Inflation**

We do not believe that our business is materially affected by inflation, other than the impact that inflation may have on the securities markets, the valuations of business enterprises and the relationship of such valuations to underlying earnings, all of which will influence the value of our investments.

**Table of Contents****Item 8. Financial Statements****BRANTLEY CAPITAL CORPORATION****BALANCE SHEETS**

	<b>As of December 31,</b>	
	<b>2003</b>	<b>2002</b>
<b>ASSETS</b>		
Investments, at fair value		
Companies 5% to 25% owned	\$ 51,814,010	\$ 59,602,279
Companies less than 5% owned	8,576,394	2,481,556
Cash and cash equivalents	4,688,731	237,154
Restricted cash	6,000,000	6,000,000
Dividends and interest receivable	6,074,224	5,426,694
Other assets	\$ 700,000	
	<u>                    </u>	<u>                    </u>
<b>Total Assets</b>	<b>\$ 77,853,359</b>	<b>\$ 73,747,683</b>
	<u>                    </u>	<u>                    </u>
<b>LIABILITIES AND STOCKHOLDERS EQUITY</b>		
Notes payable	\$ 7,500,000	\$ 6,000,000
Advisory fee payable	473,474	477,860
Accrued professional fees	343,023	1,095,505
Distributions payable	2,630,172	
Other liabilities	816,025	273,990
	<u>                    </u>	<u>                    </u>
<b>Total Liabilities</b>	<b>\$ 11,762,694</b>	<b>\$ 7,847,355</b>
	<u>                    </u>	<u>                    </u>
<b>Stockholders Equity:</b>		
Common Stock, \$0.01 par value; 25,000,000 shares authorized and 3,810,535 shares issued and outstanding at December 31, 2003 and December 31, 2002, respectively	\$ 38,105	\$ 38,105
Additional paid in capital	34,506,838	34,506,838
Retained earnings	31,545,722	31,355,385
	<u>                    </u>	<u>                    </u>
<b>Total Stockholders Equity</b>	<b>\$ 66,090,665</b>	<b>\$ 65,900,328</b>
	<u>                    </u>	<u>                    </u>
<b>Total Liabilities and Stockholders Equity</b>	<b>\$ 77,853,359</b>	<b>\$ 73,747,683</b>
	<u>                    </u>	<u>                    </u>
<b>Net Asset Value Per Share</b>	<b>\$ 17.34</b>	<b>\$ 17.29</b>
	<u>                    </u>	<u>                    </u>

The accompanying notes to the financial statements are an integral part of these statements.

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## BRANTLEY CAPITAL CORPORATION

## STATEMENTS OF OPERATIONS

For the years ended December 31,

	2003	2002	2001
<b>Investment Income:</b>			
Interest and Dividends			
Companies owned 5% to 25%	\$ 5,585,613	\$ 2,764,126	\$ 1,581,837
Companies less than 5% owned	933,243	149,541	
Write off of Interest and Dividends Receivable	(548,334)		
<b>Total investment income</b>	<b>5,970,522</b>	<b>2,913,667</b>	<b>1,581,837</b>
<b>Operating Expenses:</b>			
Advisory fees	1,952,808	1,901,941	1,631,885
Administration fees	75,465	75,000	74,795
Professional fees	70,031	1,929,878	309,759
Interest and other expenses	1,215,663	1,165,245	773,074
<b>Total operating expenses</b>	<b>3,313,967</b>	<b>5,072,064</b>	<b>2,789,513</b>
<b>Investment Income (Loss), net</b>	<b>2,656,555</b>	<b>(2,158,397)</b>	<b>(1,207,676)</b>
<b>Net Realized and Unrealized Gains (Losses) on Investments:</b>			
Net realized gains (losses)			
Companies less than 5% owned	(3,675,000)	(402,012)	1,155,843
Companies more than 5% but less than 25% owned	470,896		
Net unrealized gains on investments	3,368,058	454,423	16,851,583
<b>Net realized and unrealized gains (losses) on investment transactions</b>	<b>163,954</b>	<b>52,411</b>	<b>18,007,426</b>
<b>Net increase (decrease) in net assets resulting from operations</b>	<b>\$ 2,820,509</b>	<b>\$(2,105,986)</b>	<b>\$ 16,799,750</b>
<b>Net increase (decrease) in net assets from operations per share, basic and diluted</b>	<b>\$ 0.74</b>	<b>\$ (0.55)</b>	<b>\$ 4.41</b>
<b>Weighted average number of shares outstanding, basic and diluted</b>	<b>3,810,535</b>	<b>3,810,535</b>	<b>3,810,535</b>

The accompanying notes to the financial statements are an integral part of these statements.

**Table of Contents****BRANTLEY CAPITAL CORPORATION****STATEMENTS OF CHANGES IN NET ASSETS**

	<u>Common Stock</u>	<u>Additional Paid in Capital</u>	<u>Retained Earnings</u>	<u>Total Stockholders Equity</u>
<b>Balance at December 31, 2000</b>	\$ 38,105	\$ 37,484,895	\$ 14,420,019	\$ 51,943,019
Net increase in net assets from operations:				
Net investment loss			(1,207,676)	(1,207,676)
Net realized gain			1,155,843	1,155,843
Net unrealized gain			16,851,583	16,851,583
Distributions from:				
Net investment income				
Net realized gains			(736,455)	(736,455)
<b>Balance at December 31, 2001</b>	\$ 38,105	\$ 37,484,895	\$ 30,483,314	\$ 68,006,314
Net decrease in net assets from operations:				
Net investment gain(loss)		(2,978,057)	819,660	(2,158,397)
Net realized loss			(402,012)	(402,012)
Net unrealized gain			454,423	454,423
<b>Balance at December 31, 2002</b>	\$ 38,105	\$ 34,506,838	\$ 31,355,385	\$ 65,900,328
Net increase in net assets from operations:				
Net investment income			2,656,555	2,656,555
Net realized loss			(3,204,104)	(3,204,104)
Net unrealized gain			3,368,058	3,368,058
Distributions from:				
Net investment income			(2,630,172)	(2,630,172)
<b>Balance at December 31, 2003</b>	\$ 38,105	\$ 34,506,838	\$ 31,545,722	\$ 66,090,665

The accompanying notes to the financial statements are an integral part of these statements.

**Table of Contents****BRANTLEY CAPITAL CORPORATION****STATEMENTS OF CASH FLOWS**

For the years ended December 31,

	2003	2002	2001
<b>Cash Flows from Operating Activities:</b>			
<b>Net change in net assets resulting from operations</b>	\$ 2,820,509	\$(2,105,986)	\$ 16,799,750
Adjustments to reconcile net change in net assets resulting from operations to net cash used for operations:			
Net realized (gains) losses from investments	3,204,104	402,012	(1,155,843)
Net unrealized (gains) on investments	(3,368,058)	(454,423)	(16,851,583)
Changes in assets and liabilities:			
Dividend and interest receivable	(647,530)	(1,933,635)	(1,389,248)
Other assets	(700,000)	360,158	(337,208)
Payable for investments purchased		(200,000)	
Advisory fee payable	(4,386)	(10,071)	103,955
Accrued professional fees	(752,482)	1,042,342	(15,207)
Distributions payable	2,630,172	(736,455)	
Other liabilities	542,035	224,184	(26,327)
Purchases of investment securities	(2,208,665)	(9,422,705)	(5,871,814)
Sales/ Maturities of investment securities	4,066,050	7,702,388	3,941,883
Purchases of short-term investments			(513,664,214)
Sales/ Maturities of short-term investments			514,952,769
<b>Net cash provided by (used for) operating activities</b>	<b>5,581,749</b>	<b>(5,132,191)</b>	<b>(641,376)</b>
<b>Cash Flows from Financing Activities:</b>			
Note Payable	1,500,000		
Distributions declared but unpaid	(2,630,172)		
<b>Net cash used for financing activities</b>	<b>(1,130,172)</b>		
<b>Net change in cash and cash equivalents for the year</b>	<b>4,451,577</b>	<b>(5,132,191)</b>	<b>(3,513,087)</b>
<b>Cash and cash equivalents, beginning of year</b>	<b>237,154</b>	<b>5,369,345</b>	<b>8,882,432</b>
<b>Cash and cash equivalents, end of the year</b>	<b>\$ 4,688,731</b>	<b>\$ 237,154</b>	<b>\$ 5,369,345</b>

The accompanying notes to the financial statements are an integral part of these statements.

**Table of Contents****BRANTLEY CAPITAL CORPORATION****STATEMENT OF INVESTMENTS  
December 31, 2003**

Name of Issuer and Title of Issue	Shares/Par	Value
<b>Aviation</b>		
Flight Options International Inc. Preferred Stock and Warrants *#@	3,342,060	\$ 32,500,000
<b>Business Services</b>		
Disposable Products Company, LLC Subordinated Debt with Warrants #	3,865,992	3,109,332
The Holland Group, Inc. Convertible Preferred Stock #@	282,530	2,125,000
International Total Services, Inc. Common Stock	104,250	101
Prime Office Products, Inc. Convertible Preferred Stock #@	750,000	1,500,000
		<u>6,734,433</u>
<b>Drugs &amp; Health Care</b>		
Integrated Physician Solutions, Inc. Convertible Preferred Stock #*	793,000	3,172,000
Integrated Physician Solutions, Subordinated Debt with Warrants #*	697,448	692,348
Health Care Solutions, Subordinated Debt with Warrants #	1,701,782	1,602,611
National Rehabilitation Partners, Inc. Convertible Preferred Stock #@	2,218,375	1,454,285
National Rehabilitation Partners, Inc. Subordinated Debt #	27,228	27,228
		<u>6,948,472</u>
<b>Miscellaneous</b>		
Streamline Foods, Inc. Convertible Preferred Stock #@	897,572	699,725
Streamline Foods, Inc. Subordinated Debt with Warrants #	122,500	95,275
Value Creation Partners, Inc. Convertible Preferred Stock #@	304,989	2,225,960
Waterlink, Inc. Warrants	53,550	
		<u>3,020,960</u>
<b>Retail Trade</b>		
Fitness Quest, Inc. Convertible Preferred Stock *#@	788,961	8,091,876
Fitness Quest, Inc. Common Stock #@*	120,766	1,238,621
Fitness Quest, Inc. Warrants #@*	181,172	1,856,042
		<u>11,186,539</u>
<b>Total Investments (Cost \$25,182,154)</b>		<u>\$ 60,390,404</u>

All investments are U.S. companies

\* Represents 5% or more of total stockholders equity.

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# Represents privately held securities which are considered illiquid.

@ Represents more than 5% but less than 25% of the voting class of securities.  
The accompanying notes to the financial statements are an integral part of these statements.

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**BRANTLEY CAPITAL CORPORATION**

**NOTES TO THE FINANCIAL STATEMENTS**

**1. Organization**

Brantley Capital Corporation (the Company), a Maryland corporation, is a closed-end, non-diversified investment company which has elected to be treated as a business development company under the Investment Company Act of 1940, as amended (the Act). The Company was organized on August 1, 1996 and commenced operations on December 3, 1996. The Company's principal investment objective is to achieve long-term capital appreciation in the value of its investments and to provide current income primarily from interest, dividends, and fees paid by its portfolio companies. To achieve this objective, the Company provides equity and long-term debt financing to small and medium-sized companies in a variety of industries throughout the United States.

The Company has invested in securities classified as restricted securities under the Securities Act of 1933. The value of restricted stock investments for which no public market exists cannot be precisely determined. These securities will usually be subject to restrictions on resale or otherwise have no established trading market. The lack of liquidity of these securities may adversely affect the ability of the Company to dispose of them in a timely manner and at a fair price when the Company deems it necessary or advantageous. (See Also Note 12).

Privately placed securities typically depend significantly on the management talents and efforts of one person or a small group of persons. The loss of the services of one or more of these persons could have a material adverse affect on the portfolio company. In addition, due to their size and sometimes limited product diversity, these companies may be more vulnerable to economic downturns and often require additional capital to expand or compete.

The Company continuously evaluates opportunities to maximize the valuation of its investments. In that regard, the Company periodically evaluates potential acquisitions, financing transactions, initial public offerings, strategic alliances, and sale opportunities involving its portfolio companies. These transactions and activities are generally not disclosed to the Company's shareholders and the investing public until such time as the transactions are publicly announced or completed, as the case may be. Any such pending transaction could have an impact on the valuation of an investment which is also generally not adjusted until the transaction is publicly announced or completed.

Small-cap public companies may also display more sensitivity to changes in company, industry and market conditions than more established public companies. Because small-cap public companies often have fewer outstanding shares than larger companies, it may be more difficult for the Company to buy or sell significant amounts of shares without an unfavorable impact on the prevailing prices.

The Company operates as a non-diversified investment company within the meaning of the Act and therefore, the Company's investments are likely to not be substantially diversified.

**2. Significant Accounting Policies**

The following is a summary of significant accounting policies in conformity with accounting principles generally accepted in the United States followed by the Company in preparation of its financial statements.

*A. Security Valuation*

Privately placed securities are carried at fair value as determined in good faith by or under the direction of the Board of Directors. Generally, the fair value of each security will initially be based primarily upon its original cost to the Company. Cost will be the primary factor used to determine fair value on an ongoing basis until significant developments or other factors affecting the investment (such as results of the portfolio company's operations, changes in the general market conditions, subsequent financings, independent valuations or the availability of market quotations) provide a basis for value other than cost valuation. Proceeds from disposition of securities could differ significantly from their estimated fair value.

**Table of Contents****NOTES TO THE FINANCIAL STATEMENTS Continued**

Portfolio investments listed on an exchange or traded on the NASDAQ National Market are valued at the closing price listed on their respective exchange or system on the date of valuation. Securities traded in the over-the-counter market will be valued on the average of the closing bid and asked prices on the day of valuation.

*B. Repurchase Agreements*

The Company may invest in repurchase agreements with institutions, which Brantley Capital Management, L.L.C. (the Investment Adviser) has determined are creditworthy. Each repurchase agreement is recorded at cost. The Company requires that the securities purchased in a repurchase agreement be transferred to the Company's custodian in a manner which will enable the Company to obtain those securities in the event of counter-party default. The seller is required to maintain the value of the securities held at not less than the repurchase price, including interest.

*C. Cash and Cash Equivalents*

Cash equivalents consist of highly liquid investments with minimal interest rate risk and original maturities of three months or less at acquisition date. The stated value of these instruments approximates fair market value due to their short-term nature. At December 31, 2003, cash and cash equivalents consisted of the following:

	December 31, 2003	December 31, 2002
Cash	\$ 10,688,731	\$ 6,237,154
Non-restricted Cash	\$ 4,688,731	\$ 237,154
Restricted Cash	\$ 6,000,000	\$ 6,000,000

Pursuant to a note payable agreement (Note 10), the Company is obligated to maintain \$6.0 million of cash under the direction of the lender.

*D. Security Transactions and Related Income*

Security transactions are accounted for on a trade date basis. Net realized gains or losses on sales of securities are determined on the specific identification method. Interest income and expenses are recognized on the accrual basis. Dividend income is recorded on cumulative preferred equity securities on an accrual basis to the extent that such amounts are expected to be collected and on common equity securities on the record date for private companies or on the ex-dividend date for publicly traded companies. We assess the collectibility of dividends and interest income receivables in connection with our determination of the fair value of the related security. To the extent that there are adverse future developments, previously recognized dividend and interest income may not be realized.

*E. Dividends and Distributions to Stockholders*

The Company intends to make distributions to its stockholders of substantially all of its investment company taxable income. The Company may choose to distribute net realized long-term capital gains, or to retain such gains to supplement the Company's equity capital and support growth in its portfolio. Income distributions and capital gain distributions are determined in accordance with income tax regulations, which may differ from accounting principles generally accepted in the United States. (See also Note 12).

*F. Income Taxes*

The Company intends to continue to qualify as a regulated investment company by complying with the applicable provisions available to certain investment companies as defined in applicable sections of the Internal Revenue Code. Therefore, no provision for income taxes has been

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recorded. As of December 31, 2003 the Company has a capital loss carryforward of approximately \$3,606,000, which, if unused, \$394,000 will expire on December 31, 2010 and \$3,212,000 will expire on December 31, 2011.

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**NOTES TO THE FINANCIAL STATEMENTS Continued**

*G. Segments*

The Company operates as one segment as defined by Statement of Financial Accounting Standard No. 131 Disclosures about Segments of an Enterprise and Related Information.

**3. Investment Advisory Agreement**

The Company has entered into an investment advisory agreement (the *Advisory Agreement* ) with the Investment Adviser under which the Investment Adviser is entitled to an annual management fee of 2.85% of the Company's net assets, determined at the end of each calendar quarter, and payable quarterly in arrears throughout the term of the *Advisory Agreement*. Certain officers of the Company are also officers of the Investment Adviser. No officer of the Investment Adviser receives any compensation from the Company for serving as officer of the Company. (See also Note 12).

**4. Investments**

At December 31, 2003 and 2002, the cost of investments for federal income tax purposes was the same for financial reporting purposes.

**5. Transactions with Related Parties**

The Company has obtained exemptive relief from certain provisions of the Act which permit the Company to invest in an offering in which affiliates of the Investment Adviser also intend to invest. The Company anticipates that, subject to certain terms and conditions, current and future affiliates of the Adviser may invest in the same portfolio companies.

At December 31, 2003 and 2002, the Company owed \$473,474 and \$477,860 respectively, to the Investment Adviser for management and advisory services.

**6. Use of Estimates**

The preparation of financial statements in accordance with accounting principles generally accepted in the United States of America requires management of the Company to make a number of estimates and assumptions relating to the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of investment income and operating expenses during the period. Significant items subject to such estimates include the valuation of privately held securities. Actual results could differ from those estimates.

**7. Stockholders' Equity**

The Company is authorized to issue 25,000,000 shares of Common Stock with a par value \$0.01 per share. Shares totaling 3,660,535 were issued through the organization and initial public offering of the Company at a per share price of \$10.00. On January 15, 1997, the underwriters of the initial offering of the Company's shares exercised an option to purchase an additional 150,000 shares of Common Stock at \$10.00 per share resulting in total shares outstanding of 3,810,535. The proceeds of the offerings were recorded net of offering costs.

Under the Company's Dividend Reinvestment and Cash Purchase Plan (the *Plan* ), all cash dividends and cash distributions to stockholders are automatically reinvested unless the stockholder elects to receive his or her distributions in cash. If the market value per share of the Common Stock on the record date equals or exceeds the net asset value per share of Common Stock on that date, the Company will issue new shares at the net asset value.

If the net asset value exceeds the market price, shares will be purchased on the open market or in private transactions as soon as is practicable after such date, as permitted by applicable regulations. If before the open market purchases have been completed, the market price exceeds the net asset value, the Company will issue new shares at net asset value to fulfill the purchase requirements.



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**NOTES TO THE FINANCIAL STATEMENTS Continued**

**8. Stock Option Plans**

Concurrent with the initial public offering on December 3, 1996, the Company adopted the 1996 Stock Option Plan (the Plan), which authorizes the issuance of options to purchase up to 1,175,000 shares of Common Stock to officers and employees of the Company. Options to purchase 325,000, 175,000 and 350,000 shares of Common Stock of the Company (the Option Shares) were granted to the Company's executive officers on December 3, 1996, May 18, 1999 and February 23, 2000, respectively. These options are exercisable as to one-third of the Option Shares on the first anniversary of the option grant, as to an additional one-third of the Option Shares on the second anniversary of the option grant and as to the remaining one-third of the Option Shares on the third anniversary of the option grant. Options granted under the Plan are exercisable at a price not less than the greater of (i) the current market value on the date of option grant and (ii) the current net asset value of the shares of Common Stock on the date of the option grant. No option may be exercised more than 10 years after the date on which it is granted. The exercise price of the granted options is \$10.00, \$12.77 and \$13.42, respectively.

In addition, the Company has adopted a stock option plan relating to 75,000 shares of Common Stock to be granted to the disinterested directors of the Company (the Director's Plan). Upon receipt of an order from the Securities and Exchange Commission approving such a plan as fair and reasonable and not overreaching of the Company or its stockholders, options to purchase 22,000, 10,000 and 12,000 shares of Common Stock were granted to the disinterested directors on May 18, 1999, June 13, 2000 and June 15, 2001 respectively. These options are exercisable on the first anniversary of the option grant or (ii) the current net asset value of the shares of Common Stock on the date of the option grant. No options may be exercised more than 10 years after the date on which it is granted. The exercise price of the granted options is \$12.77, 13.96 and 13.67 respectively.

In order to facilitate the purchase of shares under the Plan or Director's Plan, the Company may make arms-length loans to each plan's participants, under the terms required by Section 57(j)(2) of the Investment Company Act of 1940. No loans were outstanding as of December 31, 2003. All options outstanding under the Plan and the Director's Plan are fully vested at December 31, 2003. No options under either plan were exercised during 2003.

In October 1995, the Financial Accounting Standards Board issued Statement No. 123, Accounting for Stock Based Compensation (the Statement). The Statement encourages companies to recognize expense for stock based compensation awards based on their fair value on the date of grant. Under the Statement, companies may continue following the existing accounting rules, provided that pro forma disclosures are made of what net income and earnings per share would have been had the new fair value method been used. The Company has elected to continue the existing accounting method and to not adopt the fair value method. Management has assessed the impact of this pro forma disclosure requirement and determined that it is not material to the operations of the Company in 2003 and 2002. Management used the Black Scholes model to perform this assessment. Key assumptions included an estimated volatility of .253, expected option life of 5 years, an expected dividend yield of 4.38 and a risk free interest rate of 4.95%. (See also Note 12).

**Table of Contents****NOTES TO THE FINANCIAL STATEMENTS Continued****9. Financial Highlights**

	Year ended December 31, 2003	
	2003	2002
Net Asset Value, Beginning of year	\$ 17.29	\$ 17.85
Income from investment operations:		
Net Investment Income (Loss)	0.70	(0.57)
Net Realized and Unrealized Gain on Investments	0.04	0.01
	<u>0.74</u>	<u>(0.56)</u>
Total from investment operations:	<u>0.74</u>	<u>(0.56)</u>
Less Distributions:		
Distributions from Net Investment Income	(0.69)	
Net Asset Value, end of the year	\$ 17.34	\$ 17.29
	<u>17.34</u>	<u>17.29</u>
Market Value, end of the year	\$ 10.20	\$ 7.70
	<u>10.20</u>	<u>7.70</u>
Total Return, at Market Value	41.31%	(29.29)%
Total Return, at NAV	6.98%	(3.14)%
Total Expenses/ Average Net Assets	4.84%	7.58%
Net Investment Income/ Average Net Assets	3.88%	(3.22)%

**10. Debt**

The notes payable to bank at December 31, 2003 included a secured note for \$6,000,000 with interest payable at the bank's prime rate, 4.00% at December 31, 2003 and an unsecured note for \$1,500,000 with interest payable at the bank's prime rate plus 1.00%, 5.00% at December 31, 2003. Under the terms of the notes, the Bank may request repayment on demand and interest is paid monthly. Interest paid for the years ending December 31, 2003 and 2002 was approximately \$302,645 and \$290,000, respectively. Pursuant to the \$6,000,000 secured note agreement, the Company is obligated to maintain \$6.0 million of cash under the direction of the lender.

**11. Commitments and Contingencies**

The Company has an investment in Flight Options, Inc., an aviation company providing complete private air travel service through the sale of fractional interests in pre-owned jet aircraft. The Company guaranteed a portion of Flight Options, Inc. third-party borrowings. Management believes, based on current facts and circumstances and Flight Options, Inc.'s financial position, that the likelihood of a payment pursuant to such guarantee is remote.

On October 8, 2002, Thomas Kornfeld and Robert Strougo filed a purported class action lawsuit against the Company, the directors of the Company excluding Phillip Goldstein, IVS Associates, Inc. and JMP Securities LLC, alleging a series of derivative and direct claims that the directors have breached their fiduciary duties and that the Company engaged in wrongdoing with respect to the Annual Meeting of Stockholders held on September 17, 2002. The factual allegations are substantially similar to the complaint filed by Mr. Goldstein and also include allegations of conversion of corporate funds. The complaint seeks, among other things, an order declaring Mr. Goldstein's nominees to be directors of the Company, an order declaring that the investment advisory agreement be terminated and damages for breach of fiduciary duty. On January 12, 2003, the plaintiffs filed a motion to consolidate this lawsuit with the lawsuit by Goldstein discussed below, which was subsequently denied.

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**NOTES TO THE FINANCIAL STATEMENTS Continued**

**12. Subsequent Events**

On March 19, 2003, the Company entered into a Memorandum of Understanding with Phillip Goldstein, a director of the Company, pursuant to which Mr. Goldstein agreed to dismiss the lawsuit he filed against the Company in September 2002, subject to compliance with the Investment Company Act of 1940. The Court approved the proposed settlement on February 26, 2004.

On June 4, 2003, the Company filed an application for exemptive relief from certain provisions of the 1940 Act in order to effect the provisions of the Memorandum of Understanding. On June 18, 2003, the Company received comments on its application from the staff of the Division of Investment Management of the Securities and Exchange Commission. On August 14, 2003 the Company responded to those comments. With such response, the Company proposed a new Memorandum of Understanding that was submitted to the staff of the Division of Investment Management. On November 12, 2003, the Company received comments regarding its August 14, 2003 response. The Company responded to such comments on December 18, 2003. On February 11, 2004, the staff of the Division of Investment Management requested a response from the Board of Directors, which the Board provided on February 15, 2004. The Company continues to discuss this matter with staff of the Division of Investment Management.

The Memorandum of Understanding is subject to approval by the stockholders, and the receipt of exemptive relief from the SEC. There can be no assurance that this exemptive relief will be granted.

Pursuant to the proposed Memorandum of Understanding the Company would agree, among other things:

to cause there to be four (4) directors who are not interested persons as defined under the 1940 Act and cause the board to be exactly seven (7) directors in total;

if Mr. Goldstein or Gerald Hellerman is no longer a director of the Company then whichever of Mr. Goldstein or Mr. Hellerman remains on the board shall have the right to select a nominee;

to not convert the Company from being an advised fund to an internally managed fund unless a majority of the independent directors agree;

to allow any independent director to request independent counsel, subject to the approval of the board, which cannot be unreasonably withheld; and

to refrain from making defamatory remarks about any party to the agreement.

In addition, the proposed Memorandum of Understanding provides that at the next Annual Meeting of Stockholders:

the Company would ask shareholders to approve a plan of orderly disposition of the assets of the Company or a sale of the assets with the goal of prompt cash distribution to shareholders;

the Company would ask shareholders to approve a new investment advisory agreement pursuant to which, prospectively:

the advisor's fees would be reduced from 2.85% to 2.5% of our net asset value;

all stock options would be forfeited and cancelled; and

the advisor would be entitled to receive a fee equal to 20% of the aggregate distributions made by the Company in excess of \$10.00 per share; however, none of the amount would be paid until aggregate distributions totaled \$12.50 per share.

The proposed Memorandum of Understanding also includes provisions that would require the parties to take all steps necessary to accomplish the goals of the Memorandum, including voting their shares in favor of the proposals. Under the proposed memorandum, the Company would also be required to reimburse Mr. Goldstein for certain expenses (not to exceed \$275,000) incurred in connection with the proxy solicitation and litigation related to the Annual Meeting of Stockholders on September 17, 2002. Mr. Goldstein would also agree not to



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**NOTES TO THE FINANCIAL STATEMENTS   Continued**

engage in, lead or fund a proxy contest while the agreement is in effect. The term of the new proposed Memorandum of Understanding would run until December 31, 2006.

If we receive all necessary government and stockholder approvals, the effect of the Memorandum of Understanding will be that we intend to make only follow-on investments, and any remaining proceeds we receive from liquidity events are intended to be distributed to shareholders.

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**INDEPENDENT AUDITOR S REPORT**

The Board of Directors and Stockholders of

Brantley Capital Corporation:

We have audited the accompanying balance sheets of Brantley Capital Corporation (Company), including the statement of investments, as of December 31, 2003 and 2002, and the related statements of operations, changes in net assets, cash flows, and financial highlights for the years then ended. These financial statements and financial highlights are the responsibility of the Company s management. Our responsibility is to express an opinion on these financial statements and financial highlights based on our audit. The financial statements of Brantley Capital Corporation for the year ended December 31, 2001 were audited by other auditors who have ceased operations. Those auditors expressed an unqualified opinion on those financial statements in their report dated March 7, 2002.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements and financial highlights are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. Our procedures included confirmation of securities owned at December 31, 2003 and 2002, by written confirmation with the custodian or investment portfolio companies. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the 2003 and 2002 financial statements and financial highlights referred to above present fairly, in all material respects, the financial position of Brantley Capital Corporation as of December 31, 2003 and 2002, and the results of its operations, the changes in its net assets, its cash flows, and its financial highlights for the years then ended in conformity with accounting principles generally accepted in the United States of America.

/s/ KPMG LLP

Cleveland, Ohio

March 29, 2004,

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Note: This is a copy of a report previously issued by Arthur Andersen LLP, Brantley Capital Corporation's former independent accountants. This report has not been reissued by Arthur Andersen LLP in connection with the filing of this Annual Report.

**REPORT OF INDEPENDENT PUBLIC ACCOUNTANTS**

To the Board of Directors and

Stockholders of Brantley Capital Corporation:

We have audited the accompanying balance sheets of Brantley Capital Corporation (a Maryland corporation) as of December 31, 2001 and 2000, and the related statements of operations, stockholders' equity and cash flows for each of the three years in the period ended December 31, 2001. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States. These standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining on a test basis evidence supporting the amounts and disclosures in the financial statements. Our procedures included confirmation of securities owned as of December 31, 2001 and 2000. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Brantley Capital Corporation as of December 31, 2001 and 2000 and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2001 in conformity with accounting principles generally accepted in the United States.

ARTHUR ANDERSEN LLP

Cleveland, Ohio  
March 7, 2002

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**Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure**

On June 11, 2002, Brantley Capital Corporation (the Company) dismissed Arthur Andersen (AA) as its independent auditors. AA's reports on the Company's financial statements for the past two years did not contain an adverse opinion or a disclaimer of opinion, and were not qualified or modified as to uncertainty, audit scope, or accounting principles. The decision to change accountants was approved by the Audit Committee of the Company's Board of Directors and was submitted for ratification by its stockholders.

During the Company's two most recent fiscal years and any subsequent interim period preceding the dismissal of AA, there were no disagreements with AA on any matters of accounting principles or practices, financial statement disclosure, or auditing scope or procedures, which disagreements, if not resolved to the satisfaction of AA, would have caused them to make reference to the subject matter of such disagreements in connection with their reports.

During the Company's two most recent fiscal years and any subsequent interim period preceding AA's dismissal:

- (1) AA did not advise the Company that the internal controls necessary for the Company to develop reliable financial statements did not exist;
- (2) AA did not advise the Company that information had come to AA's attention that let them to no longer be able to rely on management's representations, or that made them unwilling to be associated with the financial statements prepared by management;
- (3) AA did not advise the Company of the need to expand significantly the scope of their audit, or that information had come to their attention during such period that, if further investigated, may (i) materially impact the fairness or reliability of previously issued financial statements and Reports of Independent Auditors, or the financial statements issued or to be issued covering the fiscal period(s) subsequent to the date of the most recent financial statements covered by an audit report, or (ii) cause AA to be unwilling to rely on management's representations or be associated with the Company's financial statements; and
- (4) AA did not advise the Company that information had come to their attention that they had concluded materially impacted the fairness or reliability of previously issued financial statements and Reports of Independent Auditors, or the financial statements issued or to be issued covering the fiscal period(s) subsequent to the date of the most recent financial statements covered by an audit report.

The Company engaged KPMG LLP (KPMG) to act as its independent auditors, effective June 11, 2002. During the Company's two most recent fiscal years and any subsequent interim period prior to engaging KPMG, the Company did not consult KPMG regarding either: (i) the application of accounting principles to a specified transaction, either completed or proposed, or the type of audit opinion that might be rendered on the Company's financial statements, and KPMG did not provide either a written report or oral advice to the Company that KPMG concluded was an important factor considered by the Company in reaching a decision as to the accounting, auditing or financial reporting issue; or (ii) any matter that was either the subject of a disagreement or a reportable event, each as defined in Item 304 of Regulation S-K.

**Item 9A. Controls and Procedures**

(a) As of the end of the year covered by this annual report, the Company's chief executive officer and chief financial officer conducted an evaluation of the Company's disclosure controls and procedures (as defined in Rules 13a-14 and 15d-14 of the Securities and Exchange Act of 1934). Based upon this evaluation, the Company's chief executive officer and chief financial officer concluded that the Company's disclosure controls and procedures are effective in timely alerting them of any material information relating to the Company that is required to be disclosed by the Company in the reports it files or submits under the Securities Exchange Act of 1934.

(b) There have not been any significant changes in the Company's internal controls over financial reporting that occurred during our most recently completed fiscal quarter.

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**PART III**

**Item 10. Directors and Executive Officers of the Registrant**

Information in response to this Item is incorporated by reference to the identification of directors and nominees contained in the Proposal 1. Election of Directors section, and the subsections Proposal 1. Election of Directors Section 16(a) Beneficial Ownership Reporting Compliance, Proposal 1. Election of Directors Committees of the Board of Directors and Proposal 1. Election of Directors Information about Executive Officers of our proxy statement to be filed within 120 days of our fiscal year ended December 31, 2003 in connection with our 2004 Annual Meeting of Stockholders (the 2004 Proxy Statement).

We have adopted a Code of Business Conduct for all of our directors and employees, including our Chief Executive Officer and Chief Financial Officer. We have posted a copy of our Code of Business Conduct on our website at [www.brantleycapital.com](http://www.brantleycapital.com). We will provide you a copy of our Code of Business Conduct without charge upon request. To obtain a copy of our Code of Business Conduct, please send your written request to Brantley Capital Corporation, 3201 Enterprise Parkway, Suite 350, Cleveland, Ohio 44122, Attn: Corporation Secretary.

Any waivers of the Code of Business Conduct must be approved, in advance, by our full Board of Directors. Any amendments to, or waivers from the Code of Business Conduct that apply to our executive officers and directors will be posted on our website located at [www.brantleycapital.com](http://www.brantleycapital.com).

**Item 11. Executive Compensation**

The information set forth under the caption EXECUTIVE COMPENSATION in the 2004 Proxy Statement is incorporated herein by reference.

**Item 12. Security Ownership of Certain Beneficial Owners and Management**

The information set forth under the caption ELECTION OF DIRECTORS in the 2004 Proxy Statement is incorporated herein by reference.

**Item 13. Certain Relationships and Related Transactions**

The Investment Adviser, pursuant to the terms of the Investment Advisory Agreement, is responsible, on a day-to-day basis, for the selection and supervision of portfolio investments. Transactions between the Company and the Investment Adviser, including operational responsibilities, duties and compensation, are governed by the Investment Advisory Agreement. The Company currently pays to the Investment Adviser an annual management fee of 2.85% of the Company's net assets, determined at the end of each calendar quarter and payable in arrears. For the year ended December 31, 2003, the Investment Adviser was owed an investment advisory fee in the aggregate amount of \$501,749. Robert P. Pinkas, Chairman of the Board, Chief Executive Officer, Treasurer and a director, Michael J. Finn, President, Paul H. Cascio, Vice President and a director, and Tab A. Keplinger, Chief Financial Officer of the Company, are officers and managers of the Investment Adviser, and together own a majority of the Investment Adviser. As stated above in Item 1 (Business Potential Co-Investments and Follow-On Investments) and in Item 8 (Note 5 of the notes accompanying the financial statements in Financial Statements and Supplementary Data), the Company co-invests in portfolio companies from time to time with affiliates of the Company and the Investment Adviser, including certain venture capital investment partnerships. Certain officers and directors of the Company and officers of the Investment Adviser also serve as general partners of the investment partnerships general partner. The Company's co-investments with such affiliates are subject to the terms and conditions of the exemptive order granted by the Commission, which relieves the Company from certain provisions of the Act and permits certain joint transactions with the investment partnerships.

The Company is an investor in Disposable Products Company, LLC (DPC), as discussed in the Company's Management, Discussion and Analysis of Financial Condition and Results of Operations in Item 7 of this Annual Report on Form 10-K. Grand River Industries, Ltd. (Grand River) owns 85% of DPC. Grand River



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is a limited liability company that is 100% owned by Objective Industrial Investments Partners, L.P. ( Objective ). Robert P. Pinkas, Chairman and Chief Executive Officer of the Company, is a managing member in Objective. Mr. Pinkas, as a result of this investment commitment in Objective, owns 20% of Grand River.

James P. Oliver has been a director of the Company since 1998 and is a partner with the law firm of Squire Sanders & Dempsey L.L.P., which has represented the Company as general counsel since shortly after its formation in 1996.

On March 19, 2003, the Company entered into a Memorandum of Understanding with Phillip Goldstein, a director of the Company, pursuant to which Mr. Goldstein agreed to dismiss the lawsuit he filed against the Company in September 2002, subject to compliance with the Investment Company Act of 1940. The Court approved the proposed settlement on February 26, 2004.

On June 4, 2003, the Company filed an application for exemptive relief from certain provisions of the 1940 Act in order to effect the provisions of the Memorandum of Understanding. On June 18, 2003, the Company received comments on its application from the staff of the Division of Investment Management of the Securities and Exchange Commission. On August 14, 2003 the Company responded to those comments. With such response, the Company proposed a new Memorandum of Understanding that was submitted to the staff of the Division of Investment Management. On November 12, 2003, the Company received comments regarding its August 14, 2003 response. The Company responded to such comments on December 18, 2003. On February 11, 2004, the staff of the Division of Investment Management requested a response from the Board of Directors, which the Board provided on February 15, 2004. The Company continues to discuss this matter with the staff of the Division of Investment Management.

The Memorandum of Understanding is subject to approval by the stockholders, and the receipt of exemptive relief from the SEC. There can be no assurance that this exemptive relief will be granted.

Pursuant to the proposed Memorandum of Understanding the Company would agree, among other things:

to cause there to be four (4) directors who are not interested persons as defined under the 1940 Act and cause the board to be exactly seven (7) directors in total;

if Mr. Goldstein or Gerald Hellerman is no longer a director of the Company then whichever of Mr. Goldstein or Mr. Hellerman remains on the board shall have the right to select a nominee;

to not convert the Company from being an advised fund to an internally managed fund unless a majority of the independent directors agree;

to allow any independent director to request independent counsel, subject to the approval of the board, which cannot be unreasonably withheld; and

to refrain from making defamatory remarks about any party to the agreement.

In addition, the proposed Memorandum of Understanding provides that at the next Annual Meeting of Stockholders:

the Company would ask shareholders to approve a plan of orderly disposition of the assets of the Company or a sale of the assets with the goal of prompt cash distribution to shareholders;

the Company would ask shareholders to approve a new investment advisory agreement pursuant to which, prospectively:

the advisor's fees would be reduced from 2.85% to 2.5% of our net asset value;

all stock options would be forfeited and cancelled; and

the advisor would be entitled to receive a fee equal to 20% of the aggregate distributions made by the Company in excess of \$10.00 per share; however, none of the amount would be paid until aggregate distributions totaled \$12.50 per share.

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The proposed Memorandum of Understanding also includes provisions that would require the parties to take all steps necessary to accomplish the goals of the Memorandum, including voting their shares in favor of the proposals. Under the new proposed memorandum, the Company would also be required to reimburse Mr. Goldstein for certain expenses (not to exceed \$275,000) he incurred in connection with the proxy solicitation and litigation related to the Annual Meeting of Stockholders on September 17, 2002. Mr. Goldstein would also agree not to engage in, lead or fund a proxy contest while the agreement is in effect. The term of the new proposed Memorandum of Understanding would run until December 31, 2006.

If we receive all necessary government and stockholder approvals, the effect of the Memorandum of Understanding will be that we intend to make only follow-on investments, and any remaining proceeds we receive from liquidity events are intended to be distributed to shareholders.

**Item 14. Principal Accounting Fees and Services**

Information in response to this Item is incorporated by reference to the subsections Ratification of Selection of Independent Public Accountants Fees Paid to KPMG LLP for 2003 and 2002 and Ratification of Selection of Independent Accountants Report of the Audit Committee in the 2004 Proxy Statement.

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**PART IV**

**Item 15. Exhibits, Financial Statement Schedules, and Reports on Form 8-K**

- (a) The following documents are filed as part of this report:
  - 1. Financial Statements The following financial statements of the Company are contained in Item 8 of this Form 10-K:
    - Balance Sheets December 31, 2003 and December 31, 2002
    - Statements of Operations For the years ended December 31, 2003, 2002 and 2001
    - Statements of Cash Flows For the years ended December 31, 2003, 2002 and 2001
    - Statements of Stockholders Equity For the years ended December 31, 2003, 2002 and 2001
    - Notes to the Financial Statements
    - Independent Auditors Report
  - 2. Financial Statement Schedules were omitted as they are not required or not applicable, or the required information is included in the Financial Statements.
  - 3. Exhibits Reference is made to the Exhibit Index which is found on page 51 of this Form 10-K.
- (b) Disclosures were made under Item 5 on Forms 8-K dated January 3, 2003, March 19, 2003 and February 27, 2004 in connection with the litigation discussed under Item 3.
- (c) Exhibits Reference is made to the Exhibit Index which is found on page 51 of this Form 10-K.
- (d) Financial Statement Schedules were omitted as they are not required or not applicable, or the required information is included in the Financial Statements.

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**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Company has duly caused this Report on Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized.

BRANTLEY CAPITAL CORPORATION

By: /s/ ROBERT P. PINKAS

\_\_\_\_\_  
 Title: Robert P. Pinkas,  
 Chairman of the Board,  
 Chief Executive Officer  
 and Treasurer

Date: March 30, 2004

Pursuant to the requirements of the Securities Exchange Act of 1934, this Report on Form 10-K has been signed below by the following persons on behalf of the Company in the capacities and on the dates indicated.

Signature	Title	Date
/s/ ROBERT P. PINKAS	Chairman of the Board, Chief Executive Officer, Treasurer and Director (principal executive officer and principal accounting officer)	March 30, 2004
Robert P. Pinkas /s/ TAB A. KEPLINGER	Vice President and Chief Financial Officer (principal financial officer)	March 30, 2004
Tab A. Keplinger /s/ PAUL H. CASCIO	Vice President, Secretary and Director	March 30, 2004
Paul H. Cascio /s/ L. PATRICK BALES	Director	March 30, 2004
L. Patrick Bales /s/ GERALD HELLERMAN	Director	March 30, 2004
Gerald Hellerman /s/ PETER SALTZ	Director	March 30, 2004
Peter Saltz /s/ JAMES P. OLIVER	Director	March 30, 2004
James P. Oliver /s/ PHILLIP GOLDSTEIN	Director	March 30, 2004
Phillip Goldstein		

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**EXHIBIT INDEX**

The following exhibits are filed with this report or are incorporated herein by reference to a prior filing, in accordance with Rule 12b-32 under the Securities Exchange Act of 1934. (Asterisk denotes exhibits filed with this report.)

- Exhibit 3** Articles of Incorporation and By-laws
  - (1) Articles of Amendment and Restatement of the Charter of the Company (Exhibit 3.1 to the Annual Report on Form 10-K filed on March 31, 1999, which exhibit is incorporated herein by reference)
  - (2) Amended and Restated Bylaws of the Company (Exhibit 3.2 to the Annual Report on Form 10-K filed on March 31, 1999, which exhibit is incorporated herein by reference)
  - (3) Amendment to the Charter of the Company (Exhibit 3.3 to the Registration Statement filed on October 26, 2001, which exhibit is incorporated herein by reference)
- Exhibit 4** Form of Share Certificate (Exhibit 2.d to amendment No. 1 to the Registration Statement filed on October 31, 1996, which exhibit is incorporated herein by reference)
- Exhibit 10** Material Contracts
  - (1) Dividend Reinvestment and Cash Purchase Plan (Exhibit 2.e to Amendment No. 3 to the Registration Statement filed on November 26, 1996, which exhibit is incorporated herein by reference)
  - (2) Form of Investment Advisory Agreement between the Company and the Investment Adviser (Exhibit 2.g to Amendment No. 3 to the Registration Statement filed on November 26, 1996, which exhibit is incorporated herein by reference)
  - (3) Stock Option Plan and Form of Option Grants (Exhibit 2.i.1 to Amendment No. 2 to the Registration Statement filed on November 22, 1996, which exhibit is incorporated herein by reference)
  - (4) Disinterested Director Option Plan and Form of Option Grants (Exhibit 2.i.2 to Amendment No. 2 to the Registration Statement filed on November 22, 1996, which exhibit is incorporated herein by reference)
  - (5) Form of Custodian Contract (Exhibit 2.j to Amendment No. 2 to the Registration Statement filed on November 22, 1996, which exhibit is incorporated herein by reference)
  - (6) Form of Registrar, Transfer Agency and Service Agreement (Exhibit 2.k.1 to Amendment No. 2 to the Registration Statement filed on November 22, 1996, which exhibit is incorporated herein by reference)
  - (7) Form of Administration Agreement (Exhibit 2.k.2 to Amendment No. 2 to the Registration Statement filed on November 22, 1996, which exhibit is incorporated herein by reference)
  - (8) Form of Indemnification Agreement for Directors and Officers (Exhibit 2.s to Amendment No. 2 to the Registration Statement filed on November 22, 1996, which exhibit is incorporated herein by reference)
  - (9) Memorandum of Understanding dated March 19, 2003 (Exhibit 99.1 to Form 8-K filed March 20, 2003)
- Exhibit 23** Consent of Experts and Counsel
  - (1) Consent of KPMG LLP
- Exhibit 31** Officers Certificate
  - (1) Certificate of Chief Executive Officer
  - (2) Certificate of Chief Financial Officer
- Exhibit 32** Other
  - (1) Certification Pursuant to 18 U.S.C. 1350, As Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
  - (2) Certification Pursuant to 18 U.S.C. 1350, As Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002